

**STATE OF MISSOURI**  
**OFFICE OF STATE TREASURER SARAH STEELMAN**  
**AND**  
**MISSOURI HIGHER EDUCATION SAVINGS PROGRAM BOARD**

**REQUEST FOR PROPOSAL**  
**FOR COLLEGE SAVINGS MANAGER**  
**FOR THE STATE OF MISSOURI'S MO\$T PROGRAM**



Submit Proposals to:

Sarah Steelman, State Treasurer  
Truman Building, Suite 780  
301 West High Street  
Jefferson City, MO 65101  
(573) 751-2411

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## **I. INTRODUCTION**

### **A. PURPOSE OF RFP**

The Office of the State Treasurer of Missouri (the “Treasurer”) and Missouri Higher Education Savings Program Board (“Board”) hereby seek proposals from qualified firms, organizations and/or a consortium of allied financial services institutions (referred to as the “Bidder”) to provide management services in connection with the State’s 529-qualified MO\$T college savings plan (the “Program”).

The Missouri Saving for Tuition Program (or “MO\$T”) was created pursuant to Sections 166.400 through 166.455 of the Missouri Revised Statutes, as amended and attached as Exhibit A (the “Act”), and was established and is maintained as a qualified tuition plan under Section 529 of the Internal Revenue Code of 1986, as amended (the “Code”). The Program currently includes both a Direct program and an Advisor program, both of which are managed by TIAA-CREF Tuition Financing, Inc., a subsidiary of TIAA, pursuant to a Services Agreement that expires on May 9, 2006. Key features of the current program and the requirements of the Bidder include:

- **All of the assets in the current MO\$T Program, which as of July 2005 were in excess of \$750 million, will be transitioned to the selected Bidder upon successful completion of the transition period, if a new manager is selected. Bidders must provide an implementation plan for this transition, if one is necessary, including a detailed plan to map current account owners’ assets to like funds.**
- **The current cost to participants in the MO\$T Direct Program is 65 basis points, which includes the management fees for underlying mutual funds. Bidders should provide a plan or otherwise explain how existing account owners’ assets will be rolled over to the Bidder’s proposed investment option(s).**
- **The Board intends to award one contract to a single program manager. To that end, Bidders are encouraged to consider business partnerships, if necessary, to provide one comprehensive proposal that meets all of the Board’s goals.**
- **The Board encourages the inclusion in Bidders’ proposals of multiple fund families to enhance the investment options available to participants. The Program should also provide an “open architecture” for the possible inclusion of mutual fund families or other investment options at a later date, subject to negotiation between the State and selected Bidder.**
- **For the Advisor program, Bidders are encouraged to provide different investment vehicles such as managed fee accounts, dynamic asset allocation options, etc.**

- **The Board wishes to continue to operate both a Direct and Advisor-sold program. Bidders are strongly encouraged to provide proposals for both components. However, proposals to operate solely the Direct program or Advisor program may be considered. Additionally, the Board reserves the right to select different Bidders for each component, subject to negotiation with each firm.**
- **Neither the State Treasurer’s Office nor the Board currently receive any portion of the 65-basis point fee or any account setup fee, nor is there dedicated internal staff devoted to the MO\$T Program. Consequently, administration and marketing of the MO\$T Program is fundamentally the responsibility of the program manager selected via this Request for Proposal (RFP) process. Bidders should take into account the current limited level of staffing at the State Treasurer’s Office when preparing their proposals.**
- **MO\$T will consider the adoption of fees for out-of-state account owners or other multi-tiered fee arrangements to provide additional funding for operations or special programs, but the adoption of such fees would require, at a minimum, approval by the Board and possible statutory changes. Bidders should clearly indicate in their proposals if this kind of fee structure is recommended.**

For more detailed information on the MO\$T Program, the Scope of Services and Mandatory Requirements, please refer to Sections II and III of this Request for Proposals (“RFP”)

The Bidder selected pursuant to this RFP will act as manager of the Program (the “Manager”) with guidance and direction for certain matters provided by the Treasurer. As Manager, the selected Bidder will take actions to ensure overall compliance with Section 529 of the Code and the Act. This RFP is being issued pursuant to and in accordance with the Act. No moneys have been or will be budgeted or appropriated for the Program or the Plan by the State of Missouri.

The State of Missouri and the Manager as Contractor will enter into a **five-year** services contract (the “Contract”). A sample form of contract is provided in Exhibit B. Pursuant to direction by and approval from MO\$T, the Manager’s scope of work will include, but not be limited to:

- **Investment Management.** The Manager will propose investment options to appeal to a wide range of investors, and the Board will approve or reject the proposed options and adopt an investment policy statement for the Plan (the “Investment Policy”). The Manager will manage investments as a fiduciary for both the account owners and MO\$T, and in accordance with the Plan’s Investment Policy. The Board may request modifications to the investment options included in the Plan.
- **Marketing.** The Manager will develop, manage and fund a statewide marketing campaign that is tailored for the State of Missouri. The marketing campaign will be approved by MO\$T, and the Manager will be expected to provide benchmarks against which to judge the effectiveness of all marketing initiatives.

- **Distribution.** The Manager will offer the Plan directly to investors at a competitive cost via on-line enrollment and through a central mailing location. Subject to MO\$T's suggestions and approval, the Manager also will enter into selling agreements with Missouri, regional and national third party distributors to provide for distribution through a wide range of professional financial advisors.
- **Administration and Customer Service.** The Manager will manage the Plan in compliance with the Code, applicable federal and state laws and regulations, including the Act, and the Contract. The Manager will agree to process all account activity on a timely basis, and provide state-of-the-art record keeping and exemplary customer service in accordance with terms and standards set forth in the Contract. The Manager also will provide thorough information and reporting to MO\$T on a regular and timely basis.

MO\$T will accept proposals from consortia. Any consortium submitting a proposal must clearly identify each entity in the consortium, which services will be performed by each entity and the single entity which will sign the Contract for all services as Manager and thus be responsible for the delivery of services and otherwise for ensuring that all terms of the Contract are satisfied.

## **B. CONTRACT TERM AND PROVISIONS**

The term of the Contract for services pursuant to this RFP will be five (5) years. The Contract also will incorporate this RFP, including any amendments, written responses to questions, and the Bidder's proposal. In the event of an inconsistency between the Special Provisions, the Contract, this RFP or the Bidder's proposal, the order in which the provisions of these documents shall prevail will be the Contract, this RFP (as amended and clarified by written questions), and the Bidder's proposal.

Please refer to Exhibit B, which contains required language for the Services Contract entered into between the State and selected Bidder. The Bidder's transmittal letter (see Section VIII – PROPOSAL CONTENTS AND SELECTION) must accept these provisions or explain in detail any objections, proposing specific alternative language that is acceptable to the State Treasurer's Office.

## **C. PRE-PROPOSAL CONFERENCE AND BIDDER QUESTIONS**

The STO will hold a Pre-Proposal Teleconference from **1:30 PM to 3:30 PM Central Time on September 12, 2005**, to address questions regarding this RFP. All potential Bidders are encouraged to call in to this teleconference. Attendance is not mandatory to submit a response; however, Bidders are encouraged to attend since information relating to this RFP will be discussed in detail. The RFP will be used as the agenda for the conference and Bidders will be encouraged to discuss questions regarding the RFP.

Additional instructions for registration for this conference call will be provided via e-mail prior to the call. Due to technical limitations, a second teleconference may be necessary.

Bidders are encouraged to submit questions in writing in advance of the Pre-Proposal Teleconference. Such questions should be e-mailed to the State Treasurer's Office at [MOSTRFP@treasurer.mo.gov](mailto:MOSTRFP@treasurer.mo.gov). In addition, Bidders may submit follow-up written questions to the State Treasurer's Office no later than October 12, 2005 at [MOSTRFP@treasurer.mo.gov](mailto:MOSTRFP@treasurer.mo.gov).

#### **D. SUBMISSION INSTRUCTIONS**

Proposals must be completed, signed and returned (in the volumes required and with all necessary attachments) to the STO (Truman State Office Building, Suite 780, Jefferson City, Missouri) **by 1:00 p.m. Central Standard Time, October 31, 2005.** The response must include five (5) copies in addition to the original document. *Responses must be in paper form and delivered directly to the STO by the deadline date.* (Neither faxed copies nor electronic submissions will be accepted.) However, included with the original copy of the response, the bidder shall include an electronic copy of the pricing tables as indicated in Section VII.B., Format and Submission of Proposal.

Each proposal must include the following:

- ◆ Transmittal letter
- ◆ Clear, unambiguous documented acceptance of the mandatory requirements or an alternative solution to provide the requirements (see Section IV.)
- ◆ Answers to the specific questions posed to the bidders by the STO (see Section V.)
- ◆ Completed Pricing Sheets
- ◆ Signature of authorized representative

**The Manager must uphold all service and pricing commitments. All costs indicated by the Manager are firm, fixed costs for the duration of the contract period.**

#### **E. AWARD AND IMPLEMENTATION**

The STO expects to award this contract by December 31, 2005. Proposals must include an implementation schedule. The Manager must be prepared to assume responsibility for custodial services and securities lending of the State Treasurer's Office effective May 9, 2006. The STO will work with the Manager as necessary to complete implementation in a timely manner.

## **F. BID EVALUATION AND SELECTION CRITERIA**

The award of a contract resulting from this RFP shall be based in accordance with the evaluation criteria stated below:

<b>Financial Evaluation</b>	<b>40%</b>
<b>Proposed Method of Performance</b>	<b>30%</b>
<b>Experience, Quality and Reliability</b>	<b>30%</b>

## **G. ANTICIPATED TIMETABLE**

Release RFP	August 31, 2005
Pre-Proposal Conference	September 12, 2005
Proposals Due	October 31, 2005
Bidder Presentations	November 14-18, 2005
Evaluation Committee Recommendation	December 2005
Manager Selection	December 30, 2005



## II. DESCRIPTION OF CURRENT PROGRAM

### A. CURRENT PROGRAM

The MO\$T Program was authorized by House Bill 1694, which was signed into law in 1998 and codified as Sections 166.400 through 166.455 of the Revised Missouri Statutes (RSMo). Teachers Insurance and Annuity Association – College Retirement Equities Fund (TIAA-CREF) was selected as the program administrator of the Program based on an RFP process conducted in 1999 and has operated the Program since 2000. TIAA-CREF manages the day-to-day operations of the MO\$T program and makes policy recommendations to the Board, which by law must meet at least once per quarter.

TIAA-CREF currently offers three investment options to participants in the Direct Program: 100% equity, an age-based managed allocation, and a guaranteed option. The guaranteed option is an unsecured Guaranteed Investment Contract (GIC) with TIAA-CREF Life, a subsidiary of TIAA. There are currently no sales charges, application, or annual fees for the Direct Program. The current cost to participants in the MO\$T Direct Program is 65 basis points, which includes the management fees for underlying mutual funds.

In 2002, the Board introduced a new Advisor series to the program, allowing investment advisors to promote and market a separate class of shares of the MO\$T program while receiving front-end fees for their services. The table below summarizes participation in the MO\$T program, by investment option, as of December 31 of each year:

Year	Accounts/Assets	Managed Allocation Option	100% Equity Option	Guaranteed Option	MO\$T 529 Advisor	Total
2000	No. of Accts	8,221	1,009	1,019		10,249
	Assets (in thous)	\$ 28,789	\$ 2,473			\$ 31,262
2001	No. of Accts	16,045	5,482	2,980		24,507
	Assets (in thous)	60,985	22,155	12,396		\$ 95,536
2002	No. of Accts	28,408	11,217	9,333	314	49,272
	Assets (in thous)	125,068	49,908	52,987	1,169	\$ 229,132
2003	No. of Accts	37,571	14,934	13,388	3,985	69,878
	Assets (in thous)	226,331	101,517	89,545	24,644	\$ 442,037
2004	No. of Accts	44,540	18,152	15,032	6,670	84,394
	Assets (in thous)	334,277	157,999	110,233	44,795	\$ 647,304

The administration of the MO\$T Program is performed by the Missouri Higher Education Savings Program Board, which is composed of seven Board trustees. By law, the State Treasurer serves as the chairman of the board. The board is responsible for establishing investment policies, strategies, and goals for the program. The State Treasurer's Director of Investments will monitor the growth of the program's investments and provide an annual report to the board documenting the findings and recommendations. The other board members are:

- The Commissioner of the Department of Higher Education,
- The Commissioner of the Office of Administration,
- The Director of the Department of Economic Development, and
- Two members knowledgeable in the areas of finance or the investment and management of public funds, one of whom is selected by the President Pro Tem of the State Senate and one by the Speaker of the House of Representatives to serve a term of four years.
- One person having experience in the area of banking or deposit investments appointed by the Governor to serve a term of four years

Duties of the Board include: the annual adoption of an asset allocation plan; the annual approval of the MO\$T marketing plan; and a quarterly review of marketing and customer service operations and investment performance. Staff from the State Treasurer's Office (STO) coordinate and have final approval of individual marketing plans and programs, such as brochures and radio and TV campaigns, recommended by the program administrator.

An account in the MO\$T program can be opened with a minimum contribution of \$25 by check, money order, or electronic funds transfer from a checking or savings account. An account can also be opened with as little as \$15 per pay period through employee payroll deduction. A maximum of \$8,000 by an individual account owner, in aggregate contributions to all accounts, is deductible for Missouri state income tax purposes each year. Although there is no annual contribution limit, total contributions to all accounts for any beneficiary may not exceed a lifetime account balance limit of \$235,000.

## **B. RECENT DEVELOPMENTS**

In 2004, House Bill 959 authorized the Missouri Higher Education Deposit Program, as amended and attached as Exhibit C. The new law was codified as Sections 166.500 through 166.529 of the Revised Missouri Statutes. This program was envisioned as a 529-qualified Certificate of Deposit (CD) program and a nonexclusive alternative to the MO\$T program, not part of the current MO\$T Program.

In 2005, the Treasurer has retained the services of a consultant to assist the State Treasurer's Office in identifying necessary steps for the implementation of such a program and regulatory and legal requirements. Presently, the consultant and the STO are pursuing implementation of a model that would allow multiple banks within the state to issue 529-qualified CD's. It is anticipated that if such

a model were authorized and implemented, record keeping for this program would be conducted separately for the CD program and the associated costs would be borne by participating banks and/or the account owners of the CD's. However, the CD program administrator and record keeper would also need to interface with the record keeping services provided by the MOST program manager to insure compliance with IRS regulations regarding withdrawals and contributions. The Treasurer and Board may also consider other models for a CD program in addition to the conceptual model described above.

It is anticipated that an RFP for the 529-qualified CD program will be issued in the fourth quarter of 2005. However, neither the Treasurer nor the Board can provide assurances regarding the qualifications of the bidders for this RFP or can commit to a timeframe for actual implementation of the Missouri Higher Education Deposit Program.

Although the program administrator for the Missouri Higher Education Deposit Program will provide record-keeping services for CD's issued under this program, the selected Bidder for the MOST Program will be responsible for the aggregation services of the State's 529-qualified programs. Thus, the Contractor selected via this RFP shall serve as the master record keeper for qualified tuition programs within Missouri.

### **C. OTHER ISSUES**

Currently, under Missouri law, the MOST Program is the only 529 program eligible for state taxpayers to take deductions for contributions. Taxpayers may deduct up to \$8,000 per year per individual and \$16,000 for joint filers for contributions to MOST.

During the last two legislative sessions, bills attempting to expand the tax deduction to out-of-state plans have failed to pass the legislature. During the 2005 session, a consent resolution was passed to form an interim committee to explore this issue. The committee has yet to meet, and their recommendations are not binding in any way.

### **III. SCOPE OF SERVICES**

The scope of this RFP encompasses four (4) primary functional areas:

- Investment Management
- Marketing
- Distribution
- Administration and Customer Service

#### **A. INVESTMENT MANAGEMENT**

1. Each Bidder will propose investment options to appeal to a wide range of investors, and the Board will approve or reject the proposed options and adopt an investment policy statement for the Plan (the “Investment Policy”). The Manager will manage investments as a fiduciary for both the account owners and MO\$T, and in accordance with the Plan’s Investment Policy. The Board may request modifications to the investment options included in the Plan.
2. The Board intends to award one contract to a single program manager. To that end, Bidders are encouraged to consider business partnerships, if necessary, to provide one comprehensive proposal that meets all of the Board’s goals.
3. The Board encourages the inclusion in Bidders’ proposals of multiple fund families to enhance the investment options available to participants. The Program should also provide an “open architecture” for the possible inclusion of mutual fund families or other investment options at a later date, subject to negotiation between the State and selected Bidder.
4. The Board wishes to continue to operate both a Direct and Advisor-sold program. Bidders are strongly encouraged to provide proposals for both components. Bidders should clearly indicate in their proposal which investment options are provided for the Direct program versus the Advisor program. There should be distinctive elements between the Direct and Advisor programs that suitably distinguish the programs and justify any fee differential between the programs.
5. Bidders must provide either a guaranteed option, fixed income option or money-market mutual fund option for the Direct program in addition to equity option(s).
6. Bidders must possess the requisite knowledge and demonstrated previous experience in providing investment management services, including the ability to consistently deliver investment returns that meet or exceed their respective indexes in 3 - 5 year time periods. The investment performance of the Manager and funds or fund families provided by other member of the proposed consortium, if applicable, will be benchmarked against appropriate indices.

7. The Board intends to select one Manager but will not rule out multiple vendors in an effort to promote new types of proposals and choice among portfolio options. The foregoing notwithstanding, the Board requires that ease of understanding among the investment choices is a top priority and is not willing to sacrifice simplicity for choice.
8. The Board has approved the following features of the MOST Program:

• Minimum Contribution:	\$25 minimum initial contribution or \$15 monthly deposit via Electronic Funds Transfer (EFT).
• Maximum Contribution	\$235,000
• Investment Portfolios	For the Direct program, at least one each of an Age-Based fund, 100% Equity Option and either a Guaranteed, Fixed-Rate or Money-Market Mutual Fund Option

9. Bidders are encouraged to propose other investment alternatives accompanied by a clear explanation of these alternatives.

## **B. MARKETING**

1. The Manager will develop, manage and fund a marketing and promotion campaign for both the Direct and Advisor-sold programs that is tailored for the State of Missouri and designed to inform the public about the MOST program and its benefits and to educate the public about the enrollment process. As appropriate and approved by the Board and Treasurer, the Manager shall use a variety of mechanisms to reach and inform the public about the savings program. Such mechanisms may include, but not be limited to: statewide advertising and media placement, direct mail efforts, trade show activities, telemarketing, editorials and other publicity generating activities, research and market analysis activities, and etc.
2. While the overall marketing strategy should be similar for the Direct and Advisor-sold programs, the Board anticipates that the marketing plans for the two programs will also differ slightly. The purpose of the Direct program's marketing should be focused on end users of the MOST program, while the marketing plan for the Advisor program should discuss initiatives and programs intended to market the MOST program to financial advisors and distribution networks within and outside the State of Missouri.
3. Annually, the Manager must submit a marketing plan, or at the Board's direction, two separate marketing plans for the Direct and Advisor-sold programs to the Board for approval that describes the proposed appropriate mix for all planned marketing and promotional activities. The marketing plan must document how the Manager's proposed mix of activities

is designed to inform the public about the savings program and to encourage participation in the savings program. The Board shall have complete and total approval authority of the Manager's marketing plan.

4. After approval by the Board of the marketing plan, the Manager shall implement the approved marketing and promotional activities.
5. The Manager must prepare printed marketing and promotional material designed to educate the public about the savings program, to inform the public about enrollment, and to encourage participation in the program. For all printed material, advertisements, or other similar activities, the Manager must submit the concepts to the Treasurer for approval in the form of rough layouts with typewritten copy. If the Manager develops material, advertisements, etc., the Manager must also develop and use a consistent theme/slogan/image in order to insure consistency in messages etc.
6. The Manager must maintain a website for the MO\$T program.
7. A national marketing campaign for the MO\$T program is considered optional.

#### **C. DISTRIBUTION**

1. For the Direct Program, the Manager will offer the Plan directly to investors at a competitive cost via on-line enrollment and through a central mailing location.
2. The MO\$T website must allow prospective account owners to receive enrollment materials and sign up for certain payment channels.
3. Subject to MO\$T's suggestions and approval, the Manager also will enter into selling agreements for the Advisor program with Missouri, regional and national third party distributors to provide for distribution through a wide range of professional financial advisors.

#### **D. ACCOUNT ADMINISTRATION**

1. The Manager must possess the requisite knowledge and demonstrated previous experience in administering investment accounts, subject to IRS regulations.
2. The Manager will manage the Plan in compliance with the Code, applicable federal and state laws and regulations, including the Act, and the Contract. The Manager will agree to process all account activity on a timely basis, and provide state-of-the-art record keeping and exemplary customer service in accordance with terms and standards set forth in the Contract. Requirements include:

- The Manager shall administer the individual accounts and shall provide detailed and accurate individual record keeping for each account holder.
  - The Manager shall mail account statements and reports detailing all activity in the individual account to the account holder according to the schedule and frequency approved by the state agency. Such schedule must be at least quarterly and must be by no later than fifteen (15) business days after the end of the activity reporting period.
  - The Manager shall accept individual account deposits from account holders at least one time per month.
  - The Manager shall disburse funds to account beneficiaries according to established procedures and legal requirements, including the distribution of aggregated IRS Form 1099Q reports and any other forms required by law for withdrawals.
  - For each person enrolled, the Manager shall deposit the funds within one banking day by the Midnight deadline into an individual savings account and must maintain such account in compliance with State of Missouri and federal statutes. If the Manager does not deposit the funds by the Midnight deadline, the Manager shall credit each individual account holder's account with an amount equal to one days interest for each banking day that the Manager does not deposit the funds. (Banking day and midnight deadline shall be as defined in Article 4, Part 1, 400.4-104 (3) and (10) in the revised Statutes of Missouri.)
3. The Manager or financial intermediary shall staff support services for account owners and provide a toll-free phone number for the MO\$T program.
  4. The Manager shall assign a liaison staff person to coordinate communication, deliverables, and progression between the state agency and the Manager. The liaison shall be a key position that must have advanced communication (oral and written), organizational, and management skills. The state agency reserves the right to approve or not approve any such person or to require the person's replacement, if such person is deemed unacceptable. The Manager must attend all formal Board meetings unless otherwise notified by the Treasurer. The Manager also must respond to the need for telephone consultation within a 24-hour period.
  5. Upon request, the Manager shall provide the Treasurer access to all files, records, documents and data pertaining to the MO\$T program that are in its possession and control regardless of how that information is stored.
  6. The Manager must keep and protect the confidentiality of participant personal information, including identification numbers or codes and account codes and account access numbers or codes in accordance with all applicable federal and State laws.
  7. The Manager shall provide monthly reports to the Treasurer indicating the number of new accounts and assets for that month and currently in existence, all relevant investment

performance results, and other program administration and marketing information prescribed by the Treasurer or Board. The Manager also will provide a quarterly report outlining customer service inquiries and results, the number and types of complaints and the manner in which they were resolved, the quarterly performance of all investments, and such other information as the Board requests.



#### IV. MANDATORY REQUIREMENTS

All of the following items must be initialed by an authorized representative, indicating the Bidder's acceptance to perform the mandatory requirements as stated and the bidder's understanding of the State's operations and its expectations of the Manager. However, a bidder may asterisk an item (\*) and document an alternative solution to the requirement. If such an alternative solution is as cost effective and meets the same needs as the current system, the bidder will be considered to have accepted the mandatory requirement.

**Failure to comply in the above manner may be cause for rejection of the bidder's proposal.**

##### A. GENERAL REQUIREMENTS

###### 1. Minimum Manager Qualifications

- \_\_\_\_\_ a. The Bidder and all members of the Bidder's consortium providing investment management services including mutual funds or other securities must have at least five (5) years experience in the asset management or investment management field, with at least \$1 billion in funds under management in each of the last five years.
- \_\_\_\_\_ b. Bidder must be rated by two or more nationally recognized statistical rating organizations (NRSRO's) within the three highest rating categories for financial condition.
- \_\_\_\_\_ c. Bidder must be a registered investment advisor or exempt from registration.

###### 2. Operating Requirements

- \_\_\_\_\_ a. The contractor shall develop, market, implement, administer, and manage the MO\$T program on behalf of the Board in compliance with State and Federal law and in accordance with the provisions and requirements of this document.
- \_\_\_\_\_ b. The contractor shall perform all services under the direction of and to the sole satisfaction of the Board with an ultimate goal of encouraging families to save for post-secondary education costs.

## **B. TRANSITION AND PLANNING REQUIREMENTS**

- \_\_\_\_\_ a. By no later than fourteen (14) calendar days after the effective date of the contract, the contractor shall meet with the state agency and shall finalize the work plan for development and implementation of the savings program and the associated transition, if one is required, from the State's current contractor.
- \_\_\_\_\_ b. The written work plan shall, at a minimum, include and address the information contained in the contractor's final offer submitted in response to this document and the following documentation:
  - Rules, regulations, policies, procedures necessary for implementation and steps/actions and responsible party (ies) necessary to affect such rules, etc.
  - Manpower effort required by the contractor, the state agency personnel, and personnel from other entities or providers.
  - Time periods that will be affected, including projected implementation date, federal time limitations, proposed data submission schedules, etc.
  - All other information needed by the state agency in order to determine planned actions and responsibilities.
- \_\_\_\_\_ c. The contractor shall agree and understand that the state agency shall have the right to modify, require changes, and/or to require additional elaboration to the work plan as deemed necessary in order to insure a comprehensive understanding of the savings program and planned activities for implementation of the savings program.
- \_\_\_\_\_ d. The contractor shall not proceed with performance of any services until the work plan is approved by the state agency. After approval by the state agency of the work plan, the contractor shall perform the services required for the project in accordance with the approved work plan.
- \_\_\_\_\_ e. The contractor shall agree and understand that performance of services and implementation of the savings program in accordance with the approved work plan is an essential function of the state agency and is considered critical to the efficient operation of the state agency. However, the amount of actual damages that will be realized as a result of the contractor's failure to comply with the work plan is difficult to establish until final approval of the work plan. Therefore, after final approval by the state agency of the work plan, the contractor and the state agency shall mutually agree upon liquidated damages that shall apply for each requirement in the work plan.
- \_\_\_\_\_ f. In the event that the contractor is unable to or does not comply with a requirement in the work plan, the contractor shall be assessed the agreed upon amount of

liquidated damages and shall agree that the amount of liquidated damages assessed shall be reasonable and fair under the circumstances.

- \_\_\_\_\_ g. The contractor shall further agree and understand that such liquidated damages shall be paid by the contractor as a direct payment to the state agency.
- \_\_\_\_\_ h. During the provision of services, if the contractor or the state agency determine that any part of the work plan requires changes or modifications, the contractor must submit documentation to the state agency, in writing, regarding the changes necessary. Any such changes must have the prior written approval of the state agency prior to performance by the contractor

### **C. PERFORMANCE REQUIREMENTS**

- \_\_\_\_\_ a. Procedure Manual - The contractor shall develop a procedure manual and must obtain the approval of the state agency at various states in the development of the procedure manual as specified in the approval requirements stated below. The procedure manual must be divided into three (3) sections with each section containing all procedures and requirements for: (1) the contractor, (2) the state agency, and (3) the public contributors to the savings program.
- \_\_\_\_\_ b. The contractor shall develop and conduct a marketing and promotion campaign designed to inform the public about the savings program and all its benefits and to educate the public about the enrollment process.
- \_\_\_\_\_ c. As appropriate and approved by the state agency, the contractor shall use a variety of mechanisms to reach and inform the public about the MOST program. Such mechanisms may include, but not be limited to: statewide advertising and media placement, direct mail efforts, trade show activities, telemarketing, editorials and other publicity generating activities, research and market analysis activities, and etc.
- \_\_\_\_\_ d. The contractor must submit an activity plan to the state agency for approval that describes the proposed appropriate mix for all planned marketing and promotional activities. The activity plan must document how the contractor's proposed mix of activities is designed to inform the public about the savings program and to encourage participation in the savings program. The state agency shall have complete and total approval authority of the contractor's activity plan.
- \_\_\_\_\_ e. After approval by the state agency of the activity plan, the contractor shall implement the approved marketing and promotional activities.
- \_\_\_\_\_ f. The contractor must prepare printed marketing and promotional material designed to educate the public about the savings program, to inform the public about enrollment, and to encourage participation in the program.

- \_\_\_\_\_ g. For all printed material, advertisements, or other similar activities, the contractor must submit the concepts to the state agency for approval in the form of rough layouts with typewritten copy.
- \_\_\_\_\_ h. If the contractor develops material, advertisements, etc., the contractor must also develop and use a consistent theme/slogan/image in order to insure consistency in messages etc.
- \_\_\_\_\_ i. By no later than the date approved by the state agency in the work plan, the contractor shall begin accepting applications and processing them in a timely manner thereby enrolling the public in the savings program.
- \_\_\_\_\_ j. For each person enrolled, the contractor shall deposit the funds within one banking day by the Midnight deadline into an individual savings account and must maintain such account in compliance with State of Missouri and federal statutes. If the contractor does not deposit the funds by the Midnight deadline, the contractor shall credit each individual account holder's account with an amount equal to one day's interest for each banking day that the contractor does not deposit the funds. (Banking day and midnight deadline shall be as defined in Article 4, Part 1, 400.4-104 (3) and (10) in the revised Statutes of Missouri.)
- \_\_\_\_\_ k. The contractor shall administer the individual accounts and shall provide detailed and accurate individual record keeping for each account holder. The contractor shall mail account statements and reports detailing all activity in the individual account to the account holder according to the schedule and frequency approved by the state agency. Such schedule must be at least quarterly and must be by no later than five (5) business days after the end of the activity-reporting period.
- \_\_\_\_\_ l. The contractor shall accept individual account deposits from account holders at least one time per month.
- \_\_\_\_\_ m. The contractor shall disburse funds to account beneficiaries according to established procedures.
- \_\_\_\_\_ n. The contractor shall manage and invest the funds from all individual accounts in the savings program in order to maximize individual returns while preserving capital.
- \_\_\_\_\_ o. The contractor shall submit monthly and quarterly reports to the state agency that detail all activities of the savings plan for the reporting period. Such reports shall include all financial transactions including deposits and disbursements during the reporting period. The monthly reports shall detail the information "in total" and shall be submitted by no later than five (5) business days after the end of the month. The quarterly reports shall detail the information by individual account and shall be submitted by no later than ten (10) business days after the end of the quarter.

- \_\_\_\_\_ p. Also on a monthly basis, the contractor shall submit a report to the state agency that documents all investment activity including investment strategies and investment vehicles occurring during the monthly reporting period.
- \_\_\_\_\_ q. In addition to the reports specifically required herein, the contractor must provide additional financial and analytical reports as deemed necessary by the state agency.
- \_\_\_\_\_ r. The contractor shall provide continual and ongoing management and administration of the savings program including ongoing marketing, administration, account service, management of funds, etc.
- \_\_\_\_\_ s. The contractor shall maintain the procedure manual in an up-to-date and current status.
- \_\_\_\_\_ t. The contractor shall keep abreast of any changing economic trends, changes to the laws or regulations, revised statutes, rules, etc., and shall update the savings program and procedure manual accordingly.
- \_\_\_\_\_ u. The contractor must obtain the approval of the state agency of any changes to the savings program prior to implementation of such changes.
- \_\_\_\_\_ v. The contractor shall continually provide training to the state agency and other designated personnel in order that such personnel have current knowledge of the savings program, on the use and operation of any equipment, software, or systems provided or used per the contract, and on the activity of the investment fund.

**D. OTHER REQUIREMENTS:**

- \_\_\_\_\_ a. The contractor shall assign a liaison staff person to coordinate communication, deliverables, and progression between the state agency and the contractor. The liaison shall be a key position that must have advanced communication (oral and written), organizational, and management skills. The state agency reserves the right to approve or not approve any such person or to require the person's replacement, if such person is deemed unacceptable.

- \_\_\_\_\_ b. The contractor must maintain financial and accounting records and evidence pertaining to the contract in accordance with generally accepted accounting principles and other procedures specified by the state agency. These records must be made available at all reasonable times to the state agency and/or its designees and the Missouri State Auditor during the contract period and any renewal period thereof, and for the length of time specified below for maintaining contract records after final expiration of the contract.
- \_\_\_\_\_ c. The contractor shall maintain books, records, documents, systems, and other evidence pertaining to the administrative costs and expenses of the contract to the extent and in such detail as shall properly reflect all revenues, all net costs, direct and apportioned, and other costs and expenses of the contract.
- \_\_\_\_\_ d. The contractor shall agree to the following related to access to records relating to the contract. Unless the state agency specifies in writing a shorter period of time, the contractor shall preserve and make the following documents available at any time within the time stated.

#### **E. FINANCIAL REQUIREMENTS**

- \_\_\_\_\_ a. The contractor shall agree and understand that the State of Missouri shall not be obligated for any payment or reimbursement whatsoever to the contractor under the terms of the contract.
- \_\_\_\_\_ b. The contractor shall agree and understand that compensation due the contractor shall be as specified on the pricing page.
- \_\_\_\_\_ c. If basis points pricing methodology is included on the pricing page, then the contractor shall deduct and obtain the contractor's fees on a quarterly basis based on the average daily market value of the fund each quarter. A basis point shall be one hundredth of a percentage point.
- \_\_\_\_\_ d. If fees are included on the pricing page, then the contractor shall deduct the stated fixed fee from each individual's account on an annual basis each December.
- \_\_\_\_\_ e. Other than compensation to the contractor as stated herein, no other payments or reimbursements shall be made to the contractor for any reason whatsoever.
- \_\_\_\_\_ f. The contractor shall be responsible for all reasonable and customary costs of transition, if one is required, from the State's current contractor.

## **V. SPECIFIC QUESTIONS FOR BIDDERS**

**Bidders must provide clear and complete written responses to each of the following questions. Responses must be numbered in the same manner as the individual questions and will be used in evaluating each bidder's proposed method of performance. Where applicable, answer "yes" or "no". Failure to comply may result in rejection of the bidder's proposal.**

### **A. PROJECT APPROACH**

1. Provide an overview of the Bidder's proposal for both the Direct and Advisor-sold programs to the State of Missouri and summarize the overall approach and scope of services proposed by the Bidder. In providing an overview of services, Bidders may touch on areas in Sections B through H, following, but should not go into the same level of detail as the answers to the specific questions in Sections B through H.
2. For the Direct and Advisor-sold programs, if a consortium of companies is proposed, list each entity, their area of responsibility, and reporting relationships. Please explicitly identify the entity that will serve as the contract party, as well as all affiliates, subsidiaries and other entities that will provide services to meet the requirements of this RFP. Provide a chart showing the legal arrangements among all the entities that will combine to provide the services requested in this RFP. If the contract party is not a parent entity, please indicate your willingness to provide a parent guarantee or propose a suitable alternative to ensure performance of the services to be provided pursuant to the contract (the successful Bidder will be responsible for all costs associated with the services provided by subcontractors and will be liable for any negligence or misconduct by the subcontractors).
3. Describe how the Bidder would perform services in Missouri, by listing the task and the name and office location of the individual(s) who will be responsible for the proposed services, and the percentage of that individual's time dedicated to the assigned responsibility.
4. Are there unique aspects to the Bidder's proposals or qualifications that sets your Proposal apart from its competitors, such as a loyalty program or unique investment products offered by your partners?

### **B. ORGANIZATION**

1. Discuss the history of the Bidder's organization, ownership and capital structure and lines of business. The Bidder must provide copies of its audited financial statements for the past three (3) years (as **Appendix 2**) as well as the most recent annual report and all SEC filings for the last complete fiscal year, and filings for the current fiscal year, if any. Please also provide copies of the most recent audited financial statements for all proposed subcontractors (as **Appendix 3**).

2. Describe the Bidder's procedures for compliance with MSRB regulations.
3. State whether there are any past or pending regulatory restrictions, consent orders, stipulations or litigation to which the Bidder, any subcontractor, any related entity of the Bidder or any subcontractor, or any of their principals, owners, directors or officers, has ever been a party that would affect its ability to provide the required services or which alleges any unfair, illegal or unethical business practice. If so, provide a detailed description of each.
4. State whether any officers, principals, owners, directors and all proposed contract employees or any subcontractor that will provide investment services, customer services, records administration services, and marketing services have ever been convicted of a felony, had adjudication of guilt withheld as to any felony, or plead no contest to any felony. If so, a detailed description of each incident must be included.
5. State whether any penalties, fines or liquidated damages have ever been imposed against the Bidder, any subcontractors or any related entity of the Bidder or any subcontractor, including, without limitation thereto, those associated with any contract for services entered into by the Bidder, any subcontractor, or any related entity of the Bidder or any subcontractor, within the past five (5) years. If so, provide a detailed description of each such incident, including the amount of the penalty, fine or liquidated damages imposed.
6. State whether the Bidder or any subcontractor or any related entity of the Bidder or any subcontractor has ever been involved in any threatened, pending, settled or adjudicated litigation with any qualified tuition program. If so, a detailed description of each action must be provided.
7. State whether the Bidder or any subcontractor or any related entity of the Bidder or any subcontractor has ever been or is currently aware of or has reason to believe it is or will be the subject of an audit or inquiry by the Internal Revenue Service, the Securities Exchange Commission (including the NASD and the MSRB), by a Missouri regulatory or investigative agency or by any other federal or state regulatory or investigative agency in connection with its mutual fund business or a qualified tuition program. If so, provide a detailed description of each.
8. Has the investment firm, or any related entity, or any owner, officer, director, principal, or management level employee of the investment firm been involved in an enforcement action by or had an audit inquiry from the Securities Exchange Commission or any other governmental (local, state, or federal) regulatory agency, or been named a defendant in litigation where there was an allegation of violation of fiduciary responsibility? If yes to either question, explain in detail.
9. Please answer the following questions with respect to the Bidder, any related entity, affiliates, parent company, or subcontractors. If the answer is "yes" to any of the following questions, please provide a brief explanation.
  - i. Has the investment firm, the Bidder, parent company, an affiliate, subsidiary, or any affiliated mutual or commingled fund received an inquiry or subpoena regarding



market timing, late trading, or collusion with third parties? (Y/N)

- ii. Are any of the entities above currently under investigation regarding market timing, late trading, or collusion with third parties? (Y/N)
- iii. Have there been any settlement(s) regarding market timing, late trading, or collusion with third parties? (Y/N)
- iv. Have there been any other investigations, litigation, or regulatory action in relation to the investment advisory and fund businesses of the Bidder, any investment manager, parent company, subsidiary, related entity or subcontractor within the three years ending December 31, 2004? (Y/N)

NOTE: The term "related entity" means any partnership, corporation, limited partnership, limited liability company, joint venture, association or other entity owned by the Bidder, which owns the Bidder, in which the Bidder owns a financial interest of five percent or more, or which owns a financial interest of five percent or more in the Bidder.

- 10. In the last three years, what, if any, significant organizational changes (i.e., mergers, acquisitions, business concerns, etc.) have occurred?
- 11. Provide an organization chart showing the operating interrelationships and authority within this service unit and the entire organization including subcontractors, highlighting staff members in key roles.
- 12. Will any portion of this contract be handled outside the United States? Please see the Governor's Executive Order #04-09 for more information regarding the State's outsourcing policies by accessing the following link:  
[www.sos.mo.gov/library/reference/orders/2004/eo04\\_009.asp](http://www.sos.mo.gov/library/reference/orders/2004/eo04_009.asp) .
- 13. Please provide the short-term and senior unsecured debt (long-term) ratings from Standard & Poor's and Moody's Investors Service or equivalent from a Nationally Recognized Statistical Ratings Organization (NRSRO) for the Bidder or any subcontractor or any related entity of the Bidder or any subcontractor.

### **C. INVESTMENT EXPERIENCE AND CAPABILITIES**

- 1. The Bidder must have been actively engaged in the investment advisory business for at least five years prior the date of Bidder's proposal. Please summarize the Bidder's history as a registered investment advisor or, if it is exempt from registration, the basis for its exemption.
- 2. Is the investment firm, its parent or affiliate, a registered broker/dealer? If yes, does the firm trade in securities with this parent or affiliate? Describe policies in place to prevent any conflict

of interest. Describe any negative impact these policies may have on the Bidder's ability to manage assets, and steps the firm has taken to mitigate those.

3. Are any ownership or corporate governance changes planned or anticipated by the investment firm in the next 24 months? If so, describe.
4. Please list all current relationships with state 529-qualified tuition plans.
5. Please list all new institutional defined contribution relationships (excluding 529 plans) with assets in excess of \$250 million.
6. Please list all new institutional defined contribution relationships (including 529 plans) won or acquired by the investment firm within the last three years. Specify the annual assets under management for each relationship, the investment funds utilized, and the term of the engagement. Please also list institutional defined contribution relationships terminated or closed within the last three years and indicate why.
7. Please identify and provide resumes of the professional at the investment firm who will be assigned overall responsibility (i.e., the Relationship Manager) for the proposed Plan, and other dedicated staff persons. How often would this person be available for MO\$T staff and Board meetings?
8. During the last three years, has there been turnover of the investment managers for any of the underlying mutual funds proposed? Describe the investment firm's succession procedures if the investment professionals should leave the firm or change responsibilities within the firm.
9. Discuss the proposed investment strategy and specific investment products (i.e., investment options, stand-alone mutual funds, etc.) for the Direct Program and Advisor-sold Program. Include prospectuses, if available, as **Attachment 4** to your response. Please provide a detailed explanation of how the proposed strategy/investments will meet the investment needs of a broad range of students and families. There is no limit on the number of investment options that may be proposed.
10. Provide the following information for each asset allocation option or stand-alone mutual fund investment proposed:
  - i. For all asset allocation options or stand-alone mutual fund investments proposed, please complete all of the information requested on the Summary Template included in **Exhibit E** to this RFP, and include a print-out of all information in **Appendix 5** to your response. The information also should be submitted on a disk using an Excel spreadsheet as shown in the "Summary of Proposed Investment Options" Template.
  - ii. For each underlying mutual fund investment that the Bidder proposes to include in any asset allocation option or if a stand-alone mutual fund investment is proposed, please complete all of the information requested on the "Fund Information" Template included

in **Exhibit F** to this RFP, and include a printout of all information in **Appendix 6** to your response. The information also should be submitted on a disk using an Excel spreadsheet as shown in the Performance Templates.

11. If a Guaranteed Option is offered, explain the rate-setting process that will be used to set the rate initially and re-set the rate in the future (i.e., a percentage of LIBOR, etc.).
12. To enhance marketability of the Plan, MOST is interested in offering a diversified group of investment managers. Would the Bidder agree to diversification and, if so, is there a maximum number or percentage of unaffiliated investment managers the Bidder would propose? If the Bidder does not agree that diversification of investment managers is beneficial, please explain how to otherwise enhance the Plan's marketability through investment options.
13. Please indicate how the Bidder will differentiate proposed investment products in the Direct and Advisor-sold channels via price, performance or level of sophistication.
14. Describe in detail what data, information, and advice the Bidder proposes to provide MOST in analyzing and interpreting the investment results of the Proposed Plan and recommending changes to funds over the course of the contract and offering investment advisory services.
15. What fund(s) will you offer for the rollover of existing accounts to minimize the cost impact on current MOST account owners?
16. Are there separate fees for out-of-state account owners and in-state account owners or for current MOST enrollees versus future enrollees? If so, please clearly indicate this on the forms contained in Exhibits E and F and in your response to Question 9 above.

#### **D. MARKETING**

1. Describe your overall marketing plan for both the Direct and Advisor-sold program for MOST. How would you emphasize and educate to current and prospective participants the existence of new and different investment options for the MOST program, if applicable? Would your plan incorporate different features and approaches in the first year of the program versus Years 2-5 of the term?
2. What support will you provide to brokers marketing the Advisor-sold program?
3. How customized is your marketing plan for the State of Missouri?
4. Describe the resources other than financial that the Bidder will provide to MOST for purposes of in-State and / or national marketing. Please be specific in terms of the field support that will be available within Missouri to market the proposed Plan to employers, financial professionals and community groups.

5. Explain how the Bidder will measure the success of its marketing efforts and report that to the Board.
6. What will you provide in the way of ongoing disclosure, such as a disclosure booklet, for the MO\$T program to account owners?
7. Please indicate the Bidder's position on whether marketing materials should be submitted to the NASD and / or the MSRB when such review is not otherwise required. Please explain how much time this would build into the schedule for approval of marketing materials.
8. Please complete the following table showing the Bidder's annual marketing commitment in Missouri and nationwide. Please also note that the Bidder will be expected to deliver the annual Missouri marketing commitment on the first day of each Contract year, and the Bidder will be expected to spend the entire national marketing commitment in each year. If national marketing dollars remain unspent at the end of any year, the Bidder will transfer the unspent monies to MO\$T at the end of the Contract Year for use in connection with the Program. Allowable marketing expenditures are limited to the out-of-pocket costs associated with the acquisition of new accounts and contributions to existing accounts, which would exclude, for example, administrative expenditures (such as general overhead, personnel or other allocated expenses) or maintenance expenses such as costs for program disclosure updates and other administrative communications.

Contract Year	Annual Marketing Commitment		
	Missouri	National	Total
1			
2			
3			
4			
5			
<b>Total</b>			

9. Describe other qualified tuition programs for which the Bidder has marketing responsibility. Will the Bidder agree not to market these programs in Missouri?
10. Describe any commitments or restrictions which would limit the Bidder's ability to offer or market the Proposed Plan in states other than Missouri.
11. Please list the other qualified tuition programs for which the Bidder has selling or distribution agreements. Please indicate the annual sales of those programs by the Bidder's sales force in

Missouri. Will the Bidder agree not to offer those programs in Missouri absent a written acknowledgement by the investor that he or she is foregoing state tax benefits?

12. Please describe the Bidder's experience with third party distribution, including customized account forms, access to account information, commission payment procedures, and general technical support provided.

## **E. DISTRIBUTION**

1. Describe the distribution network(s) the Bidder intends to utilize to sell the MO\$T program.
2. If your firm or entity relies on third party distribution, describe in detail the size of your wholesaling forces, the number of key account managers, the target channels (B/D wirehouse, B/D independent, B/D regional, bank, IRA, retirement plans, etc.), and their territorial organization. Include details on your firm or entity's coverage in Missouri. Indicate if your external sales force is categorized as product specialists, generalists or a combination. What changes/additions, if any, would you make if you were to win this assignment?
3. If your firm or entity relies on third party distribution, list in table form your top ten distributors, gross sales by distributor, and percentage of your total firm sales, as shown below. Describe each distributor's channel(s) and the approximate number of registered representatives or advisors at each distributor (within Missouri and nationwide).

Distributor	Gross Sales	% of Total Sales	Channel Type	Registered Reps	
				MO	Nat'l

4. If your firm or entity utilizes captive distribution, describe your wholesaling force, the total size of the sales force, the geographic distribution, and the general product mix of your firm or entity's clients. Include details on your firm or entity's coverage in Missouri. What changes/additions, if any, would you make if you were to win this contract?

## **F. ADMINISTRATION AND CUSTOMER SERVICE**

1. Indicate whether account administration and record keeping will be performed internally by the Bidder or assigned to a Subcontractor. Describe the Bidder's or assigned Subcontractor's experience in college savings or individual participant account administration and record keeping, including the number of years that service has been provided, the number of accounts for which the Bidder is currently responsible, the frequency and volume of individual transactions that are processed on a daily or other periodic basis, and the approximate dollar value of such accounts.

2. How will the entity responsible for record keeping above interface with the administrator of the proposed Missouri Higher Education Deposit Program?
3. Describe the Bidder's federal tax compliance procedures for maximum contributions and withdrawal aggregation. How will the Bidder coordinate its tax compliance procedures with the proposed Missouri Higher Education Deposit Program?
4. Describe the Bidder's or assigned Subcontractor's technical environment, including hardware, application and database software, communications equipment, and system security.
5. Describe the Bidder's or assigned Subcontractor's disaster recovery plan, including backup procedures, alternate operating facilities, hardware and software replacement, and testing.
6. Describe the Bidder's or assigned Subcontractor's account opening processes. Describe the enrollment and payment options available for participants to make initial and subsequent contributions.
7. Does the Bidder offer enrollment through the workplace? If so, please indicate whether payroll contributions are processed through payroll deduction or clearinghouse transactions, and provide the number of programs, the total number of participants, the total number of accounts by process. Please also indicate whether payroll deduction is available to all workplaces or whether a size threshold applies for such processing. Would the employer pay any costs associated with offering the Proposed Plan?
8. Has a SAS 70 or any other performance audit been completed for the Bidder's or assigned Subcontractor's operations? If so, please provide a copy of the latest audit report in **Appendix 7**. If not, state whether the Bidder is willing to provide a SAS 70 at its cost within the first year of the Contract.
9. Describe the Bidder's or assigned Subcontractor's procedures to ensure confidentiality of participant records.
10. Describe the systems, interfaces, and tracking mechanisms that will be utilized for fulfillment requests.
11. How will the Bidder ensure that MO\$T and its staff have access to the files and data stored on its computers or other systems relating to the Proposed Plan?
12. Describe any on-line information or reporting capabilities the Bidder will make available to MO\$T, including format, media, and frequency.
13. Describe the systems and interfaces that MO\$T customer service staff will utilize to research or query customer accounts, if any. Describe what the Bidder can provide for MO\$T to dynamically access real time account information via the Internet.
14. Describe the Internet tools the Bidder will make available to direct channel customers for

planning, communications and account access.

15. Describe what influence or decision input MO\$T will have on the customer service-oriented components of the Bidder's web site.
16. Describe the types, frequency and mode of customer reports or statements to be provided by the Bidder. Please describe whether the customer will have access to account information other than account reports or statements. Provide examples of any participant or beneficiary statements, preferably for a 529 plan, in **Appendix 8** to the proposal.
17. Describe the Bidder's or assigned Subcontractor's ability to retain and retrieve participant documents and correspondence, as well as history of customer contacts and other communications. What information does the Bidder propose to maintain and how?
18. Describe the Bidder's customer service center operations, including location, hours of operation, staff size and experience with qualified tuition programs, training programs, and monitoring of staff for quality service.
19. What are the Bidder's customer service standards? Please describe any significant changes in customer service quality, processes, training or procedures over the last two years. How does the Bidder plan to measure and report compliance with or deviations from its customer service standards? In what way and with what frequency will the Bidder monitor customer service satisfaction?
20. Describe the problem management and escalation procedures the Bidder will follow in connection with the Proposed Plan. How and when will complaints be resolved and how will these be reported to MO\$T?
21. Provide an example of the type of report that would be provided to the Board on a quarterly basis summarizing investment performance, marketing efforts, customer service performance, etc. as **Attachment 9**.

## **G. TRANSITION AND PLAN IMPLEMENTATION**

1. Describe the procedures and processes necessary to implement the Plan, noting particularly any transition issues, and whether the Bidder believes that any regulatory action is required. Include a project plan as **Attachment 10** showing the specific steps, milestones and responsibilities from Contract award to launch of the Plan. The Bidder must include in this plan tasks required for the establishment and maintenance of accounts, as well as all aspects of customer service to existing and prospective MO\$T account holders.
2. Describe your experience in the last five years, if any, with the transition of assets from another defined contribution plan or qualified tuition plan.

3. If a new Manager is selected, MO\$T would strongly prefer to allow current account owners the option of designating which of the new investment options offered by the Manager they wish to transition to during the transition. Do you foresee any problems with accomplishing this assuming an award of the contract by December 30, 2005? What informational materials would you provide to MO\$T account owners during the transition to assist them in determining a suitable investment option. See Question #15 under the previous Section "Investment Experience and Capabilities".
4. For account owners who fail to select investment option(s) to transition to, please provide a plan listing which comparable investment options you will offer to map existing account owners' assets to.
5. Explain how the Bidder will facilitate meetings with the Treasurer to implement the Plan and beyond.
6. Please identify the legal counsel the Bidder will engage, if any, to assist with Contract matters, disclosure materials, and regulatory compliance reviews.
7. Please identify the Missouri entity the Bidder intends to engage for assistance with Missouri legislative issues that arise during the course of the Contract.
8. What dedicated resources (personnel, equipment, training, etc.), procedures and controls will you provide or recommend in the conversion period to ensure a successful and timely conversion? What customer service will you provide during the transition (e.g., a toll-free telephone number, etc.)?
9. Describe the STO's responsibilities and the resources required from us during this process.
10. Is the bidder currently involved in, or planning any major system changes, acquisitions, or conversions? Please explain your plans and include the potential impact to the STO and this contract.

## **H. COST PROPOSAL**

1. Please specify the proposed fee structure for account owners enrolled in the Direct Program (that is, without the assistance of a financial professional), indicating whether the fees will be all-in and fixed, variable, or some combination of both. Please complete the "Program Management Fees and Expenses Template" included in Exhibit G to this RFP, and include a print-out of all information in **Appendix 11** to your response. The information also should be submitted on a disk using an Excel spreadsheet as shown in the "Summary of Proposed Investment Options" Template.

Also indicate the cost differences, if any, between direct investors within Missouri and non-Missouri direct investors. Finally, if the Bidder proposes a different cost structure for in-state



and out-of-state direct investors, please specify the basis for an investor's categorization (is it the account owner, the student, or both?).

- Please complete all items in the following chart (stated in basis points unless otherwise indicated) that apply to a proposed share class structure for the Advisor Program (that is, investors working with financial professionals, including fee-based advisors). If the Bidder is not proposing similar share classes, then mark the boxes "NA" for not applicable. Please note that MOST seeks to receive sufficient funds from all plans within the Program to cover general and administrative expenses associated with the Program. Please explain how the Bidder intends to provide funds for these costs, whether through fees charged to investors or as additional dedicated funds from the Bidder.

Share Class	Upfront Sales Load (%)	CDSC (%)	Trail	Program Management Fee		Total Fees
				Manager	MOST	
A						
B						
C						
Fee-Based Advisors (institutional)						
Other (specify)						

- Please indicate whether break points apply to the loads indicated in Question 2 above and at what levels. If the Bidder offers B shares, please specify the point at which such shares convert to A shares and provide all information on CDSCs (including C shares if applicable).
- Please modify as appropriate and complete the following table (modify the table as necessary to include A Shares breakpoints if applicable). Be sure to indicate whether different commission structures apply to specific investment options.

Share Classes	Selling Commission*	On-Going Sales Fee**
A		
B		
C		
Fee-Based Advisors		
Other (specify)		

\* Based upon the amount contributed

\*\* Based upon the average daily net assets in the account; indicate when payment begins

5. Describe any fee sharing or other financial arrangements the Bidder currently has in place or intends to establish with other distributors, investment managers, subcontractors or other service providers. MO\$T must approve any additional fees or changes to such fees in the future.
6. Are there any other “hidden” fees or costs to account owners that are not included above?

## **VI. GENERAL INFORMATION AND CONTRACT PROVISIONS**

### **A. CONTRACTUAL AGREEMENT AND AMENDMENT**

1. The contract between the State of Missouri and the successful Bidder awarded the contract shall consist of this RFP, including any amendments, written responses to questions, and the Bidder's proposal. In the event of an inconsistency between the Contract, this RFP or the Bidder's proposal, the order in which the provisions of these documents shall prevail will be the Contract, this RFP (as amended and clarified by written questions), and the Bidder's proposal. These documents shall collectively be referred to as "the contract." In the event of a conflict between the RFP and the Bidder's proposal above, the provisions and requirements set forth and/or referenced in this RFP shall govern. However, the STO reserves the right to clarify any contractual relationship in writing with the concurrence of the Manager, and such clarification shall govern in case of conflict with the applicable requirements stated in the RFP or successful bidder's response. In all other matters not affected by the written clarification, if any, this RFP shall govern.
2. The STO reserves the right to negotiate with the Manager for changes in services or additional service items, subject to mutual agreement. Any such amendments shall be agreed upon in writing as described in item 3, immediately below.
3. Any change in the contract must be accomplished by a formal written contract amendment signed and approved by and between the duly authorized representatives of the Manager and the STO. Any amendment to the contract shall (a) specify an effective date; (b) specify any increases or decreases in the amount of the Manager's compensation, if applicable; (c) describe changes, if any, to the provisions of the contract; (d) be entitled as an "Amendment"; and (e) be signed by the parties identified in the preceding sentence. The Manager expressly and explicitly understands and agrees that no other method and/or no other document, including correspondence, acts, and oral communications by or from any person, shall be used or construed as an amendment to the contract.
4. It is understood that in certain situations the Manager may utilize the services of related financial institutions (i.e., banks within the same holding company as the Manager) in performing certain services required under the contract. In all such situations, the Manager retains sole, direct and primary responsibility for securing the required contractual performance from such related institution as well as sole, direct and primary responsibility for assuring that all contractual provisions, including all applicable legal, financial and eligibility requirements, are continuously met by such related institution. All rights and remedies vested in the STO by this contract apply with equal force and effect to the Manager's related institution. Conversely, all rights and remedies vested in the Manager by this contract rest solely with the Manager and not the related institution. The Manager agrees to indemnify, save and hold the STO harmless

from any expense, liability or payment arising out of the actions of a related institution pursuant to the contract or made by a related institution as a result of the contract.

## **B. CONTRACT PERIOD, DEFAULT, CANCELLATION OR TERMINATION**

1. Except where specifically noted, the STO anticipates entering into a contract which will run through March 8, 2011. Contract amendments may provide for extension beyond the stated contract period, subject to mutual agreement.
2. If, in the sole discretion of the STO, the STO concludes that the Manager has substantially defaulted in any manner in performing any of the contractual terms and conditions, and such default is not cured by the next banking day after notice of such default is given to the Manager, the STO may immediately terminate the contract and withdraw all State of Missouri funds on deposit with the Manager.
3. The STO may cancel the contract, in whole or in part, at any time for a breach of any contractual obligation. Should the STO exercise its right to cancel the contract for such a reason, the cancellation shall become effective on the date specified in a written notice of cancellation sent to the Manager.
4. The STO reserves the right to terminate the contract, in whole or in part, at any time, for the convenience of the State of Missouri, without penalty or recourse, by giving written notice to the Manager at least 120 days prior to the effective date of such termination. In the event of termination pursuant to this paragraph, all documents, data, reports, supplies, and accomplishments prepared, furnished or completed by the Manager pursuant to the terms of the contract shall, at the option of the STO, become property of the State of Missouri. The Manager shall be entitled to receive just and equitable compensation for the work completed pursuant to the contract prior to the effective date of termination.
5. The Manager may terminate the contract by giving written notice to the STO at least 120 days prior to the effective date of such termination. In the event of termination pursuant to this paragraph, all documents, data, reports, supplies, and accomplishments prepared, furnished or completed by the Manager pursuant to the terms of the contract shall, at the option of the STO, become property of the State of Missouri. The Manager shall be entitled to receive just and equitable compensation for the work completed pursuant to the contract prior to the effective date of termination.
6. The Manager further agrees and understands that any payment due under the terms of the contract shall be made by the STO only (a) after the successful completion of all requirements set forth in the contract; and (b) after approval and acceptance by the STO of the Manager's performance, services and/or supplies required by the terms of the contract.

7. No provision in this document or in the Manager's proposal shall be construed, expressly or impliedly, as a waiver by the STO of any existing or future right and/or remedy available by law in the event of any claim of default or breach of contract.
8. Any written notice to the Manager shall be deemed sufficient when presented to an authorized employee of the Manager at its address as listed on the signature page of the contract, or deposited in the United States mail, postage prepaid, and addressed to the Manager at its address as listed on the signature page of the contract, or at such address as the Manager may have requested in writing.

#### **C. LIABILITY AND RESPONSIBILITY**

1. The Manager shall be liable to the STO for any loss of funds as a result of the Manager's failure to properly execute a contract obligation when such error is within the Manager's control. This includes system and/or processing downtime that is not restored in a timely manner.
2. The contactor shall agree that it will hold the STO harmless from any third party claims for damage resulting from any act or omission on the Manager's part.
3. The contactor shall be deemed to have exercised ordinary care if the Manager has followed established procedures agreed to by contract in executing a transfer. The contactor agrees that it shall be deemed not to have exercised ordinary care if it has deviated from these procedures without prior written authorization from the STO.

#### **D. RECORDS, ACCESS AND CONFIDENTIALITY**

1. The Manager shall maintain financial and accounting records and supporting evidence pertaining to the contract in accordance with generally accepted accounting principles and other procedures specified by the STO.
2. All such reports, records, tapes, files or other materials developed or acquired by the Manager as a specified requirement of the contract shall become property of the STO.
3. The Manager shall permit reasonable access by the STO during the contract period and any extension periods, and for an eighteen (18) month period beyond the end of the contract, for purposes of performing audit procedures relating to any aspect of the services provided by the Manager to the STO in connection with the contract.
4. Any and all information supporting the contract and any and all tapes, files and data files maintained by the Manager for such purpose shall be provided to the STO, or a designated STO representative, at no cost to the STO or designated representative, upon request by the STO, at the end of the contract.

5. In addition to the reports specifically required by the contract, the Manager must provide, for an agreed price, additional financial and analytical reports as the STO may request.
6. The STO reserves the right to reject or request changes in all reports, systems, on-line inquiry features, and all other procedures.
7. If the STO requests a service be performed on a specific day, and that day is not a banking day, the Manager must provide the service on the next banking day, unless otherwise indicated by the STO or by mutual agreement between the Manager and the STO.
8. The Manager shall maintain complete confidentiality of all records relating to services performed under the contract in accordance with state and federal laws, rules and regulations. No list, report or other materials generated from data covered under the contract may be disclosed or transferred by Manager to any other person or entity.

#### **E. COMPLIANCE WITH APPLICABLE LAWS**

1. The contract shall be construed according to the laws of the State of Missouri.
2. The Manager shall comply with all local, state and federal laws and regulations related to the performance of the contract, to the extent that the same may be applicable, and must be registered with and maintain good standing with the Missouri Secretary of State and Department of Economic Development, Division of Finance, and/or any other Missouri State office or agency, as may be required by law or regulation.
3. The Manager represents itself to be an independent Manager offering such services to the general public and shall not represent itself or its employees to be an employee of the State of Missouri. The Manager shall assume all legal and financial responsibility for taxes, FICA, employee fringe benefits, workers compensation, employee insurance, minimum wage requirements, overtime, etc., and agrees to indemnify, save, and hold the State of Missouri, its officers, agents, and employees harmless from and against, any and all loss, cost (including attorney fees), and damage of any kind related to such matters.
4. In connection with the furnishing of supplies or performance of work under the contract, the Manager agrees to comply with the Fair Labor Standard Act, Fair Employment Practices, Equal Employment Opportunity Act, the Americans With Disabilities Act (ADA), and all other applicable federal and state laws, regulations, and executive orders to the extent that the same may be applicable and further agrees to insert the foregoing provision in all subcontracts awarded hereunder.
5. Contractors with the State of Missouri must comply with Article XIII of Executive Order #87-6 pertaining to discrimination and affirmative action. (The executive order may be viewed at

[http://www.sos.mo.gov/library/reference/orders/1987/eo1987\\_006.asp](http://www.sos.mo.gov/library/reference/orders/1987/eo1987_006.asp) ). Failure to comply may result in appropriate action including cancellation of the contract resulting from this RFP.

#### **F. ASSUMPTION OF LIABILITY, INSURANCE AND INDEMNIFICATION**

1. The Manager shall be responsible for any and all injury or damage as a result of any service rendered under the terms and conditions of the contract. In addition to the liability imposed upon the Manager for personal injury, bodily injury (including death) or property damage suffered as a result of the contractor's performance under the contract, the Manager assumes the obligation to save the State of Missouri, including its agencies, employees, and assigns, from every expense, liability or payment arising out of such negligent act. The Manager also agrees to hold the State of Missouri, including its agencies, employees, and assigns, harmless for any negligent act or omission committed by any subcontractor or other person employed by or under the supervision of the Manager under the terms of the contract.
2. The Manager shall maintain adequate liability insurance to protect the State of Missouri, its agencies, its employees, its assigns, its clients, and the general public against any loss, damage, and/or expense related to its performance under the contract. The insurance coverage shall include, but shall not necessarily be limited to, general liability, errors and omissions, professional liability, etc. Written evidence of the insurance coverage shall be provided by the Manager to the STO. The evidence of insurance shall include, but shall not necessarily be limited to: effective dates of coverage; limits of liability; insurers' names; policy numbers; endorsement by representatives of the insurance company; etc. Evidence of self-insurance coverage or of another alternate risk financing mechanism may be utilized, provided that such coverage is verifiable and irrevocably reliable. The evidence of insurance coverage must be submitted before or upon award of the contract. In the event the insurance coverage is in any way changed, the STO shall be notified immediately.

#### **G. PROPOSAL ACCEPTANCE OR REJECTION**

The STO reserves the right, in its sole discretion, to accept or reject any proposals, in whole or part, received in response to this RFP, to waive or permit cure of minor irregularities, and to conduct discussions with any or all qualified bidders in any manner necessary to serve the best interests of the State of Missouri. The STO also reserves the right, in its sole discretion, to award a contract based on the written proposals received without prior discussions or negotiations.

## **H. PROPOSAL PREPARATION COSTS**

The STO will not reimburse any bidder responding to this RFP for costs incurred in preparing documentation, making presentations, or any other costs incurred as a result of this RFP.

## **I. INSTALLATION AND CONVERSION COSTS**

Any equipment installation, software or data file conversions, or any other costs associated with start-up and implementation shall be the responsibility of the Manager.

## **J. REPLACEMENT EQUIPMENT AND TRAINING**

1. If requested by the STO, the Manager shall upgrade any software provided under the contract. In addition, the Manager shall provide the training and user manuals necessary to effectuate the replacement or conversion of software.
2. As requested by the STO, the Manager shall provide periodic training or retraining of STO personnel, or, when appropriate, personnel of other state agencies, in the use and operation of the equipment, software, or systems provided under the contract at no cost to the STO.
3. In the event that the Manager's systems or any of its components are rendered permanently inoperative, the Manager must have the capability to reconstruct necessary data files and operate on replacement equipment within one (1) business day of any disaster.

## **K. SUBSTITUTION OF PERSONNEL**

The STO's agreement to the contract is predicated, in part and among other considerations, on the utilization of the specific individual(s) and/or personnel qualification(s) as identified and/or described in the Manager's proposal. Therefore, the Manager agrees that no substitution of such specific individuals shall be made without the prior written notification to and approval by the STO. The Manager further agrees that any substitution made pursuant to this paragraph must be equal or better than originally proposed and that the notification of a substitution shall not be construed as an acceptance by the STO of the substitution's performance potential.



#### **L. REVIEW OF SERVICES**

The STO will conduct quarterly service reviews with the Manager. Such reviews will include a review of the quality of services and discussion of any specific concerns of the STO or the Manager, and will be documented in a mutually agreed upon format.

#### **M. ASSIGNMENT**

The Manager shall not assign any interest in the contract nor transfer any interest, whatsoever, in the same (whether by assignment or notation) without prior written consent of the STO.

#### **N. CONFLICT OF INTEREST**

The Manager covenants that it presently has no interest and shall not acquire any interest, directly or indirectly, which would conflict in any manner or degree with the performance of the services hereunder. The Manager further covenants that no person having any such known interest shall be employed by the Manager or conveyed an interest, directly or indirectly, in the contract.

#### **O. ESTIMATED VOLUMES**

Any statistics or estimates of workload provided in this RFP are for informational purposes only and do not imply that they accurately represent expected future activity.

## **VII. COMPENSATION**

### **A. METHOD OF COMPENSATION**

1. The Manager will be compensated for its services under this Contract solely through fees collected from MO\$T account holders, consistent with the Bidder's Financial Proposal in Attachment E.
2. Manager will not be entitled to additional compensation for the costs of preparation of proposal or the costs of transition and implementation.

### **B. PRICE ADJUSTMENTS**

1. All prices included in the proposal are effective for the entire term of the contract, unless otherwise specified below.

## VIII. PROPOSAL CONTENTS AND SELECTION

### A. GENERAL CONSIDERATIONS

1. Each of the mandatory requirements contained in Section IV of this RFP must be initialed by the authorized representative signing the transmittal letter to indicate the Bidder's acceptance to perform the requirement as stated.
2. Bidders must prepare concise and complete written responses to each of the specific questions for bidders (Section V). Responses should be numbered in the same manner as the questions and will be used in evaluating each bidder's proposed method of performance.
3. Bidders are free to recommend any changes to approach or systems which they believe would be beneficial or cost-effective to the state. This can include recommendations for enhancing, streamlining or eliminating redundant or superfluous processing or reporting, and opportunities for integrating services or systems. Bidders should note, however, that proposals will be evaluated and the Manager will be chosen on the basis of the Manager's commitment to meet and deliver the mandatory service requirements at the most competitive price. Thus, recommendations which increase the cost of a proposal beyond that necessary to meet and deliver the mandatory service requirements may place the bidder at a competitive price disadvantage relative to bidders who price their proposals strictly in terms of the mandatory service requirements. The State shall be the final and sole arbiter of whether such alternative solution proposals meet the State's requirements and are cost effective.
4. **Bidders may submit more than one proposal.** Additional proposals may be prepared in an abbreviated form following the same format as the primary proposal (which shall be labeled as such), but containing only that information that differs in a substantive way from that contained in the primary proposal. Each proposal must be bound separately and prepared in accordance with Part B of this section.
5. Bidders may submit a proposal that does not satisfy all of the specific mandatory requirements of the RFP by offering an alternative solution to the approach depicted in the RFP. Such proposals must be clearly identified by the vendor as "Alternative Solution Proposals." In all cases to be considered for evaluation, alternative solution proposals must clearly meet the intent of the mandatory requirements of the RFP, be cost effective, as well as meeting the overall objectives of the procurement and the state's needs as stated in Section II, the Scope of Services. Alternative solution proposals must be prepared in accordance with Part B of this section.
6. All bidders must be prepared to schedule and deliver a presentation to the STO. The presentation, if scheduled, will encompass the bidder's proposal, transition issues (if any), and an introduction to the staff that will be involved in servicing the STO's contract and relationship

with the bidder. Presentations may be scheduled with up to the top five successful bidders at the STO's discretion. Presentations are currently scheduled to occur during the week of November 14, 2005. The STO is in no way obligated to schedule bidder presentations, and the STO can select a proposal without viewing a presentation from the bidder. All costs involved with the presentations are the bidder's sole responsibility.

**7. Bidders should be aware that proposals become public record under state law.**

**B. FORMAT AND SUBMISSION OF PROPOSAL**

1. Proposals should provide straightforward and concise descriptions of the Applicant's ability to satisfy the requirements of this RFP. The proposal must be complete and accurate. Omissions, inaccuracies or misstatements will be sufficient cause for rejection of a proposal.
2. In preparing proposals, Bidders must use standard 8 ½" x 11" white paper with a minimum type size of 10 points. Consecutively number all pages in the Applicant's response (including attachments and/or appendices).
3. Each proposal must include the following:
  - ◆ A cover letter stating:
    - The name, address, email, phone and fax numbers of the principal contact responsible for the oversight of the contract.
    - The name, address, email, phone and fax numbers of the project representative who will be available to the Treasurer on a day-to-day basis during the term of the contract. Please also attach Exhibit A (found in Appendix 5 of this proposal) to the cover letter with Section 4 of the Exhibit completed.
    - The name, address, email, phone, fax number and name of a key contact at each partner, if a consortium, and subcontractor and what the aforementioned would be responsible for under the Contract.
    - Signature by an individual authorized to contractually bind the Bidder.
    - The letter should indicate the Bidder's understanding of the work required, the ability to perform the work and a statement that the proposal is firm and irrevocable for a minimum of 180 days.
    - The letter should also state that the Bidder accepts the form of Contract attached as Exhibit B, or it should note in detail any objections. If the Bidder objects to any provisions, the letter must include alternative language for consideration and approval by MOST and legal counsel.
  - ◆ Initialed copy of the mandatory requirements or an alternative solution to provide the requirements (see Section IV.)

- ◆ Answers to the specific questions posed to the bidders by the STO (see Section V)
  - ◆ A completed version of Appendix 1 (see Exhibit D)
  - ◆ All other appendices listed on Appendix 1 including completed forms for investment options, underlying mutual funds and pricing
4. All proposals must be submitted under sealed cover and received to the STO (Truman State Office Building, Suite 780, Jefferson City, Missouri) **by 1:00 p.m. Central Standard Time, October 31, 2005**, unless the Treasurer provides notice that the date has been changed. Proposals received after this date and time will not be considered.
  5. One original and five copies of the proposal must be submitted.
  6. The original proposal must be marked "ORIGINAL COPY". All documents contained in the original proposal package must have original signatures and must be signed by a person who is authorized to bind the proposing firm. All additional proposal sets may contain photocopies of the original package.
  7. All proposals shall include the documents identified in Attachment 1, including the Required Attachment Checklist. Proposals not including the Required Attachments shall be deemed non-responsive. A non-responsive proposal is one that does not meet the basic proposal requirements and will be rejected.
  8. Mail or deliver proposals to the following address for both U.S. Postal Service Deliveries or Hand Deliveries (UPS, Express Mail, Federal Express):

**State of Missouri  
Office of the State Treasurer  
Truman Building, Suite 780  
301 West High Street  
Jefferson City, MO 65101  
(573) 751-2411**

9. The bidder must respond to this RFP by submitting all data required. Failure to submit such data may be deemed sufficient cause for disqualification of a proposal from further consideration for award.

### C. CLARIFICATION OF REQUIREMENTS

1. Any and all questions regarding specifications, requirements, competitive procurement process, etc., must be directed in writing to the Office of the State Treasurer by e-mailing questions to [MOSTRFP@treasurer.mo.gov](mailto:MOSTRFP@treasurer.mo.gov) . This is the only method of communication that will be accepted.
2. **Bidders are cautioned not to contact employees of the STO, employees of other state agencies, members of the General Assembly, or any members of the evaluation committee concerning this procurement during the competitive procurement and evaluation process. Such contact may cause the bidder's proposal to be rejected.**
3. The bidder is advised that the only official position of the STO is that position which is stated in writing and issued by the STO as a RFP and any amendments thereto. No other means of communication, whether oral or written, shall be construed as a formal or official response or statement.

### D. EVALUATION PROCESS

1. After determining that a proposal satisfies the mandatory requirements stated in this RFP, the comparative assessment of the relative benefits and deficiencies of the proposal in relationship to the published evaluation criteria shall be made by using subjective judgment. The award of a contract resulting from this RFP shall be based on the evaluation criteria stated below:

<b>Financial Evaluation</b>	<b>40%</b>
<b>Proposed Method of Performance</b>	<b>30%</b>
<b>Experience, Quality and Reliability</b>	<b>30%</b>

*Any cost-effective suggestions to improve current systems may be used to select one bidder over another if scoring is tied.*

2. After an initial screening process, if deemed necessary, the STO and the evaluation committee may ask a bidder to clarify or verify the bidder's proposal to develop a more comprehensive assessment of the proposal. Such a request will be delivered via e-mail to the officer signing the proposal, and will generally require a **48-hour turnaround** of the bidder's response. Also, after the initial screening process, the evaluation committee will invite up to five (5) firms for an interview.
3. Only those Bidders selected as Finalists by the Evaluation Committee will be interviewed. The interview will be used to clarify the written proposal. Bidder may NOT introduce new material during the interview. All principal participants of the Bidder's team should attend the interview. The Evaluation Committee has the right not to conduct interviews.

4. The STO reserves the right to consider historic information and facts, whether gained from the bidder's proposal, question and answer conferences, references, or any other source, in the evaluation process.
5. It is the bidder's sole responsibility to submit information related to the evaluation categories and the STO is under no obligation to solicit such information if it is not included with the bidder's proposal. Failure of the bidder to submit such information may cause an adverse impact on the evaluation of the bidder's proposal including rejection of the bidders' proposal.
6. In the event that only one (1) proposal is received in response to this RFP, the STO reserves the right to cancel the bidder process or to negotiate the terms and conditions, including the price, as proposed in the sole bidder's proposal. In addition, as part of such negotiations, the STO reserves the right to require supporting cost, pricing and other data from the bidder in order to determine the reasonableness and acceptability of the proposal.
7. **Competitive Negotiation of Proposals** – Bidders are advised that under the provisions of this Request for Proposal, the State reserves the right to conduct negotiations of the proposals received or to award a contract without negotiations. If such negotiations are conducted, the following conditions shall apply:
  - Negotiations may be conducted in person, in writing, or by telephone.
  - Negotiations will only be conducted with potentially acceptable proposals. The State reserves the right to limit negotiations to those proposals which received the highest rankings during the initial evaluation phase. All bidders involved in the negotiation process will be invited to submit a best and final offer.
  - Terms, conditions, prices, methodology, or other features of the Bidder's proposal may be subject to negotiation and subsequent revision. As part of the negotiations, the Bidder may be required to submit supporting financial, pricing and other data in order to allow a detailed evaluation of the feasibility, reasonableness, and acceptability of the proposal.
  - The mandatory requirements of the Request for Proposal shall not be negotiable and shall remain unchanged unless the Division of Purchasing and Materials Management determines that a change in such requirements is in the best interest of the State of Missouri.

## **E. PRICING**

1. The bidder must complete Exhibits F and G of this RFP. Any pricing involved in providing required services must be reflected on the pricing tables. All costs must be portrayed.
2. Any cost and/or pricing data submitted or related to the bidder's proposal including any cost and/or pricing data related to contractual extension options, whether required or voluntary, shall

be subject to evaluation if deemed by the STO to be in the best interests of the State of Missouri.



## **IX. EXHIBITS**

- A. Revised Missouri Statutes, Sections 166.400 through 166.455
- B. MO\$T Services Contract
- C. Revised Missouri Statutes, Sections 166.500 through 166.529
- D. Appendix 1 (To be Used by Bidders for Submission of Proposal)
- E. Summary of Proposed Investment Options Template (to be completed by Bidder)
- F. Fund Information Template (to be completed by Bidder)
- G. Program Management Fees and Expenses Template (to be completed by Bidder)

## **EXHIBIT A**

**Revised Missouri Statutes, Sections 166.400 through 166.455**

## MISSOURI HIGHER EDUCATION SAVINGS PROGRAM

### ➡166.400. Citation

Sections 166.400 to [166.455](#) shall be known and may be cited as the "Missouri Higher Education Savings Program".

### ➡166.410. Definitions

As used in [sections 166.400](#) to [166.455](#), except where the context clearly requires another interpretation, the following terms mean:

- (1) "Beneficiary", any individual designated by a participation agreement to benefit from payments for qualified higher education expenses at an eligible educational institution;
- (2) "Benefits", the payment of qualified higher education expenses on behalf of a beneficiary from a savings account during the beneficiary's attendance at an eligible educational institution;
- (3) "Board", the Missouri higher education savings program board established in [section 166.415](#);
- (4) "Eligible educational institution", an institution of postsecondary education as defined in [Section 529\(e\)\(5\) of the Internal Revenue Code](#);
- (5) "Financial institution", a bank, insurance company or registered investment company;
- (6) "Internal Revenue Code", the Internal Revenue Code of 1986, as amended;
- (7) "Missouri higher education savings program" or "savings program", the program created pursuant to [sections 166.400](#) to [166.455](#);
- (8) "Participant", a person who has entered into a participation agreement pursuant to [sections 166.400](#) to [166.455](#) for the advance payment of qualified higher education expenses on behalf of a beneficiary;
- (9) "Participation agreement", an agreement between a participant and the board pursuant to and conforming with the requirements of [sections 166.400](#) to [166.455](#); and

(10) "Qualified higher education expenses", the qualified costs of tuition and fees and other expenses for attendance at an eligible educational institution, as defined in [Section 529\(e\)\(3\) of the Internal Revenue Code](#), as amended.

**➡166.415. Creation—Missouri higher education savings board--members--powers and authority--organization--vote necessary for action--meetings--investment of funds--conflicts of interest**

1. There is hereby created the "Missouri Higher Education Savings Program". The program shall be administered by the Missouri higher education savings program board which shall consist of the Missouri state treasurer who shall serve as chairman, the commissioner of the department of higher education, the commissioner of the office of administration, the director of the department of economic development, two persons having demonstrable experience and knowledge in the areas of finance or the investment and management of public funds, one of whom is selected by the president pro tem of the senate and one of whom is selected by the speaker of the house of representatives, and one person having demonstrable experience and knowledge in the area of banking or deposit rate determination and placement of depository certificates of deposit or other deposit investments. Such member shall be appointed by the governor with the advice and consent of the senate. The three appointed members shall be appointed to serve for terms of four years from the date of appointment, or until their successors shall have been appointed and shall have qualified. The members of the board shall be subject to the conflict of interest provisions of [section 105.452, RSMo](#). Any member who violates the conflict of interest provisions shall be removed from the board. In order to establish and administer the savings program, the board, in addition to its other powers and authority, shall have the power and authority to:

(1) Develop and implement the Missouri higher education savings program and, notwithstanding any provision of [sections 166.400 to 166.455](#) to the contrary, the savings programs and services consistent with the purposes and objectives of [sections 166.400 to 166.455](#);

(2) Promulgate reasonable rules and regulations and establish policies and procedures to implement [sections 166.400 to 166.455](#), to permit the savings program to qualify as a "qualified state tuition program" pursuant to [Section 529 of the Internal Revenue Code](#) and to ensure the savings program's compliance with all applicable laws;

(3) Develop and implement educational programs and related informational materials for participants, either directly or through a contractual arrangement with a financial institution for investment services, and their families, including special programs and materials to inform families with young children regarding methods for financing education and training beyond high school;

(4) Enter into agreements with any financial institution, the state or any federal or other agency or entity as required for the operation of the savings program pursuant to [sections 166.400 to 166.455](#);

(5) Enter into participation agreements with participants;

(6) Accept any grants, gifts, legislative appropriations, and other moneys from the state, any unit of federal, state, or local government or any other person, firm, partnership, or corporation for deposit to the account of the savings program;

(7) Invest the funds received from participants in appropriate investment instruments to achieve long-term total return through a combination of capital appreciation and current income;

(8) Make appropriate payments and distributions on behalf of beneficiaries pursuant to participation agreements;

(9) Make refunds to participants upon the termination of participation agreements pursuant to the provisions, limitations, and restrictions set forth in [sections 166.400 to 166.455](#) and the rules adopted by the board;

(10) Make provision for the payment of costs of administration and operation of the savings program;

(11) Effectuate and carry out all the powers granted by [sections 166.400 to 166.455](#), and have all other powers necessary to carry out and effectuate the purposes, objectives and provisions of [sections 166.400 to 166.455](#) pertaining to the savings program; and

(12) Procure insurance, guarantees or other protections against any loss in connection with the assets or activities of the savings program.

2. Any member of the board may designate a proxy for that member who will enjoy the full voting privileges of that member for the one meeting so specified by that member. No more than three proxies shall be considered members of the board for the purpose of establishing a quorum.

3. Four members of the board shall constitute a quorum. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board. No action shall be taken by the board except upon the affirmative vote of a majority of the members present.

4. The board shall meet within the State of Missouri at the time set at a previously scheduled meeting or by the request of any four members of the board. Notice of the meeting shall be delivered to all other trustees in person or by depositing notice in a United States post office in a properly stamped and addressed envelope not less than six days prior to the date fixed for the

meeting. The board may meet at any time by unanimous mutual consent. There shall be at least one meeting in each quarter.

5. The funds shall be invested only in those investments which a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims, as provided in [section 105.688, RSMo](#). The board may delegate to duly appointed investment counselors authority to act in place of the board in the investment and reinvestment of all or part of the moneys and may also delegate to such counselors the authority to act in place of the board in the holding, purchasing, selling, assigning, transferring or disposing of any or all of the securities and investments in which such moneys shall have been invested, as well as the proceeds of such investments and such moneys. Such investment counselors shall be registered as investment advisors with the United States Securities and Exchange Commission. In exercising or delegating its investment powers and authority, members of the board shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. No member of the board shall be liable for any action taken or omitted with respect to the exercise of, or delegation of, these powers and authority if such member shall have discharged the duties of his or her position in good faith and with that degree of diligence, care and skill which a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.

6. No investment transaction authorized by the board shall be handled by any company or firm in which a member of the board has a substantial interest, nor shall any member of the board profit directly or indirectly from any such investment.

7. No trustee or employee of the savings program shall receive any gain or profit from any funds or transaction of the savings program. Any trustee, employee or agent of the savings program accepting any gratuity or compensation for the purpose of influencing such trustee's, employee's or agent's action with respect to the investment or management of the funds of the savings program shall thereby forfeit the office and in addition thereto be subject to the penalties prescribed for bribery.

#### **➡166.420. Savings program participation agreements**

1. The board may enter into savings program participation agreements with participants on behalf of beneficiaries pursuant to the provisions of [sections 166.400](#) to [166.455](#), including the following terms and conditions:

(1) A participation agreement shall stipulate the terms and conditions of the savings program in which the participant makes contributions;

(2) A participation agreement shall specify the method for calculating the return on the contribution made by the participant;

(3) The execution of a participation agreement by the board shall not guarantee that the beneficiary named in any participation agreement will be admitted to an eligible educational institution, be allowed to continue to attend an eligible educational institution after having been admitted or will graduate from an eligible educational institution;

(4) A participation agreement shall clearly and prominently disclose to participants the risk associated with depositing moneys with the board;

(5) Participation agreements shall be organized and presented in a way and with language that is easily understandable by the general public; and

(6) A participation agreement shall clearly and prominently disclose to participants the existence of any load charge or similar charge assessed against the accounts of the participants for administration or services.

2. The board shall establish the maximum amount which may be contributed annually by a participant with respect to a beneficiary.

3. The board shall establish a total contribution limit for savings accounts established under the savings program with respect to a beneficiary to permit the savings program to qualify as a "qualified state tuition program" pursuant to [Section 529 of the Internal Revenue Code](#). No contribution may be made to a savings account for a beneficiary if it would cause the balance of all savings accounts of the beneficiary to exceed the total contribution limit established by the board. The board may establish other requirements that it deems appropriate to provide adequate safeguards to prevent contributions on behalf of a beneficiary from exceeding what is necessary to provide for the qualified higher education expenses of the beneficiary.

4. The board shall establish the minimum length of time that contributions and earnings must be held by the savings program to qualify pursuant to [section 166.435](#). Any contributions or earnings that are withdrawn or distributed from a savings account prior to the expiration of the minimum length of time, as established by the board, shall be subject to a penalty pursuant to [section 166.430](#).

**➡166.425. Payments by participants--deposits--investments--use of funds**

All money paid by a participant in connection with participation agreements shall be deposited as received and shall be promptly invested by the board. Contributions and earnings thereon accumulated on behalf of participants in the savings program may be used, as provided in the participation agreement, for qualified higher education expenses.

**➡166.430. Cancellation of participation agreement and return of funds**

Any participant may cancel a participation agreement at will. The board shall impose a penalty equal to or greater than ten percent of the earnings of an account for any distribution that is not:

- (1) Used exclusively for qualified higher education expenses of the designated beneficiary;
- (2) Made because of death or disability of the designated beneficiary;
- (3) Made because of the receipt of scholarship by the designated beneficiary;
- (4) A rollover distribution, as defined in [Section 529\(c\)\(3\)\(C\)\(i\) of the Internal Revenue Code](#); or
- (5) Held in the fund for the minimum length of time established by the board.

➡ **166.435. Income tax exemptions**

1. Notwithstanding any law to the contrary, the assets of the savings program held by the board and the assets of any deposit program authorized in [section 166.500](#) and qualified pursuant to [Section 529 of the Internal Revenue Code](#) and any income therefrom shall be exempt from all taxation by the state or any of its political subdivisions. Income earned or received from the savings program or deposit program shall not be subject to state income tax imposed pursuant to chapter 143, RSMo, and shall be eligible for any benefits provided in accordance with [Section 529 of the Internal Revenue Code](#). The exemption from taxation pursuant to this section shall apply only to assets and income maintained, accrued, or expended pursuant to the requirements of the savings program established pursuant to [sections 166.400](#) to [166.455](#), and the deposit program established pursuant to [section 166.500](#) to [166.529](#), and Section 529 of the Internal Revenue Code, and no exemption shall apply to assets and income expended for any other purposes. Annual contributions made to the savings program held by the board and the deposit program up to and including eight thousand dollars for the participant taxpayer shall be subtracted in determining Missouri adjusted gross income pursuant to [section 143.121, RSMo](#).

2. If any deductible contributions to or earnings from any such program referred to in this section are distributed and not used to pay qualified higher education expenses or are not held for the minimum length of time established by the appropriate Missouri state authority, the amount so distributed shall be added to the Missouri adjusted gross income of the participant, or, if the participant is not living, the beneficiary.

3. The provisions of this section shall apply to tax years beginning on or after January 1, 1999, and the provisions of this section with regard to [sections](#)



[166.500](#) to [166.529](#) shall apply to tax years beginning on or after January 1, 2004.

#### ➡**166.440. Assets of saving program**

The assets of the savings program shall at all times be preserved, invested and expended only for the purposes set forth in this section and in accordance with the participation agreements, and no property rights therein shall exist in favor of the state.

#### ➡**166.445. Rules**

Any rule or portion of a rule, as that term is defined in [section 536.010, RSMo](#), that is promulgated under the authority delegated in [sections 166.400 to 166.455](#) shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. All rulemaking authority delegated prior to August 28, 1998, is of no force and effect and repealed; however, nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 1998, if it fully complied with the provisions of chapter 536, RSMo. [Sections 166.400 to 166.455](#) and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 1998, shall be invalid and void.

#### ➡**166.450. Semiannual review of financial status, investment policy, and participation rate--annual report--public disclosure**

The director of investment of the state treasurer's office shall, on a semiannual basis, review the financial status and investment policy of the program as well as the participation rate in the program. The director of investment shall also review the continued viability of the program and the administration of the program by the board. The director of investment shall report the findings annually to the board, which shall subsequently disclose such findings at a public meeting.

#### ➡**166.455. Classification of deposits and expenditures**

Money accruing to and deposited in individual savings accounts shall not be part of "total state revenues" as defined in [sections 17 and 18 of article X of the Constitution of the state of Missouri](#) and the expenditure of such revenues shall not be an expense of state government under [section 20 of article X of the Constitution of the state of Missouri](#).

#### ➡**166.456. Confidentiality of information**

All personally identifiable information concerning participants and beneficiaries of accounts established within the Missouri higher education savings program pursuant to [sections 166.400 to 166.456](#) shall be confidential, and any disclosure of such information

shall be restricted to purposes directly connected with the administration of the program.

**EXHIBIT B**

**MO\$T Services Contract**

## EXHIBIT B

### STATE OF MISSOURI

#### SAMPLE MO\$T SERVICE CONTRACT

This Service Contract is entered into by and between MO\$T and the Missouri Higher Education Savings Program Board and \_\_\_\_\_, a \_\_\_\_\_ Corporation with its principal place of business in \_\_\_\_\_.

WHEREAS, pursuant to the Chapter 166, RSMo, as amended, hereinafter referred to as "**the Act**", the State's 529-qualified MO\$T College Savings Plan, hereinafter referred to as "**MO\$T**", was created pursuant to Section 529 of the United States Internal Revenue Code of 1986, hereinafter referred to as "**the Code**"; and

WHEREAS, The Act authorizes the State Treasurer, hereinafter referred to as "**the Treasurer**", and the Missouri Higher Education Savings Program Board, hereinafter referred to as "**the Board**", to contract with a qualifying financial institution or institutions, hereinafter referred to as "**the Program Manager/ Manager**", to provide certain services in connection with the contributions to individual trust accounts established under MO\$T; and

WHEREAS, under the Act, the funds contributed to the individual trust accounts are held in trust by MO\$T and the contracting Program Manager and may be invested pursuant to Section 529 of the Code as designated by the individual account owner;

NOW THEREFORE, the Board and the Program Manager hereby agree as follows:

#### 1. INCORPORATION OF ADDITIONAL DOCUMENTS:

The following documents are hereby incorporated into this Contract as though fully set forth herein:

(a) The MO\$T Request for Proposal released on September 1, 2005, and any amendments thereto, hereinafter referred to as "**the RFP**"; and

(b) The Program Manager's Proposal dated October 1, 2005, and all additional written responses and attachments, hereinafter referred to as "**the Proposal**"

In the event of any conflict, ambiguity or discrepancy between this Contract and any of the foregoing documents, the Contract shall govern followed by the documents listed in this section in the precedence set out above.

#### 2. APPOINTMENT OF PROGRAM MANAGER/ FIDUCIARY:

1. The Board hereby appoints the Program Manager to provide the services in connection with MO\$T. The Manager hereby accepts the appointment and agrees to perform the services in accordance with this Contract. The Program Manager agrees that it shall cooperate with the Treasurer and the Board and any consultants, advisors, auditors or legal counsel hired by MO\$T to review, evaluate or otherwise advise on MO\$T.

2. The Program Manager acknowledges that it has a fiduciary responsibility to MO\$T, the Trust, the individual Account owners and Trust beneficiaries thereof. The Manager agrees that these fiduciary duties extend to all services with which it will provide pursuant to this Contract. The Manager further agrees that it shall hold and manage the accounts and monies deposited therein in trust for the Account owners and beneficiaries thereof, and shall do so reasonably in the interest of income or principal beneficiaries, or both, and in view of the manner in which men of ordinary prudence, diligence, discretion, and judgment would act in the management of the Trust and individual accounts therein in accordance with the Uniform Fiduciaries Laws of the State of Missouri and any other fiduciary requirements to which it is subject.

### **3. DELEGATION AND ASSIGNMENT OF RESPONSIBILITIES**

The Board and the Program Manager agree that under certain circumstances the Manager may utilize the services of related financial institutions in performing certain services required under the contract upon written consent of the Board. In all such situations, the Manager retains sole, direct and primary responsibility for securing the required contractual performance from such delegates and subcontractors and shall remain obligated hereunder as if no delegation or assignment by subcontract had been made. The Manager agrees to indemnify, save and hold the Treasurer, the Board, the State of Missouri, it's agencies, officers, employees, assigns, representatives and delegates, hereinafter referred to as the "**MO\$T Indemnitees**", harmless from any expense, liability or payment arising out of the actions of such a related institution and all rights and remedies vested in MO\$T by this Contract apply with equal force and effect to the Program Managers related institution. Conversely, all rights and remedies vested in the Manager by this Contract rest solely with the Manager and no other.

### **4. SELLING AGREEMENTS**

The Program Manager may, and shall to the extent directed by the Board, enter into selling agreements in a form approved in advance by the Board with broker-dealers to the extent deemed beneficial to MO\$T by the Manager and the Board, provided that any such arrangement shall not be deemed to constitute a delegation or assignment by subcontract for performance of any services or responsibilities delegated to the Manager by this Contract. The Manager shall provide to the Board a copy of each such selling agreement promptly after the execution by the parties thereto.

### **5. EMPLOYEES OF THE PROGRAM MANAGER**

The Program Manager shall utilize its personnel to perform services pursuant to this Contract, and such personnel shall at all times remain employees of and subject solely to the direction and control of the Manager. Hence the Manager shall alone retain full liability to its employees and consultants in all respects. The Manager warrants that all employees engaged in the Services shall be qualified to perform the services and be properly licensed and otherwise authorized to do so under all Applicable Laws.

Management Personnel specified in the Proposal, being a material term of the Contract, shall be substituted only upon prior written approval by the Board.

## **6. ASSUMPTION OF LIABILITY AND INDEMNIFICATION**

1. The Program Manager shall be responsible for any and all injury or damage as a result of any service rendered under the terms and conditions of the Contract. The Manager shall be liable to MO\$T for any and all losses, costs, claims, liabilities, penalties, damages and expenses (including, without limitation, reasonable attorney's fees and disbursements) suffered, incurred or sustained by MO\$T or to which MO\$T becomes subject, to the extent resulting from, arising out of or relating to a breach, untimely performance or nonperformance by the Manager of its duties, obligations, representations, warranties or covenants under this Contract including, without limitation, any negligence or willful misconduct by the Manager or its officers, employees, agents representatives, delegates, affiliates or subcontractors.

2. The Project Manager agrees to indemnify, defend and hold harmless MO\$T, the Treasurer, the Board, the State of Missouri, its officers, employees, agents and representatives from and against all losses suffered, incurred or sustained by the MO\$T Indemnitees or to which any of them becomes subject, to the extent resulting from, arising out of or relating to a breach or nonperformance by the Manager of its duties, obligations, representations, warranties and covenants under this Contract including but without limitation any negligence or willful misconduct by the Manager or its board members, officers, employees, agents, representatives, affiliates or subcontractors.

## **7. INSURANCE COVERAGE AND LIMITED LIABILITY**

1. The Program Manager shall maintain adequate liability insurance including, but not limited to, general liability, errors and omissions, and professional liability insurance, to protect the MO\$T Indemnitees against any loss, damage, and/or expense related to its performance under this Contract. Written evidence of such insurance coverage shall be provided by the Manager to MO\$T on or before the date that this Contract becomes binding. The evidence of coverage shall include, but not be limited to the effective dates of coverage, liability limits, insurers' name, policy numbers, endorsements by the representatives of the insurance company, etc. Evidence of self-insurance coverage or another alternate risk financing mechanism may be utilized, provided that such coverage is verifiable and irrevocably reliable. The Manager must

immediately notify MO\$T of any changes to insurance coverage at any time throughout the Contract period.

2. The obligations with respect to MO\$T under this Contract and any liability relating thereto shall be payable solely from the aforementioned insurance policy or policies, and shall not otherwise constitute or become an indebtedness, a debt or a liability of the State of Missouri, MO\$T, the Treasurer, or the Board, nor shall any of the same be otherwise liable thereon.

## **8. PLAN IMPLEMENTATION AND TRANSITION**

1. The Manager shall contact existing Account owners prior to transition in order to educate them about the new investment options available to them.

2. Upon receipt of the Account owner's response the Manager shall roll the Account owner's existing assets into the investment option of their choice. If an Account owner fails to submit a choice, the Manager shall successfully map current Account owner's assets into like investment fund options.

3. The Manager shall be responsible for any and all regulatory action required for such transfers.

## **9. INVESTMENT MANAGEMENT SERVICES AND STIPULATIONS**

1. The Program Manager agrees to propose investment options including multiple fund families that appeal to a wide range of investors to be approved by the Board whom will then adopt an investment policy. The Manager, acting as a fiduciary for both the account owners and MO\$T, will manage the investments in accordance with the Board adopted investment policy. The proposed plan shall provide an "open architecture" for the possible inclusion of additional mutual fund families or other investment options at a later date. The Board reserves the right to request modifications at any time to the investment options included under the plan, subject to negotiation between the Board and the Manager.

2. The Manager shall use reasonable efforts to apprise MO\$T in writing of any new investment options, products or programs which are developed by or on the behalf of the Manager to be offered as qualified plans under section 529 of the Code. To the extent consistent with the investment policy and requested by MO\$T, the Manager agrees to use reasonable efforts to incorporate such new features into the MO\$T Plan.

3. The Manager agrees to offer both a Direct and an Advisor-sold program with distinctive elements between the two that will justify any resulting fee differential. For the Direct program the Manager shall offer at least one of the following: a guaranteed option, a fixed income option or a money-market mutual fund option.

4. The Manager stipulates that it has the requisite knowledge and experience and has consistently delivered investment returns that have met or exceeded their respective indexes in 3-5 year timetables as benchmarked against appropriate indices.

5. The Manager shall provide investment management services for each Account established in the Trust pursuant to the Act. All contributions made to the Accounts shall be deposited by the Manager into the Trust and invested according to the respective investment option or options designated by the individual Account owner in their participation agreement or account application. The assets held in Trust shall be preserved, invested and expended in strict accordance with the Code and the Act.

6. In making investment decisions for the Trust and the underlying portfolios, the Manager shall comply with all applicable laws and regulations, including applicable securities laws and regulations, and shall take into account such information concerning Account owners and beneficiaries as required by Section 529 of the Code and taking into account any guidance provided thereunder by the U.S. Treasury Department and/or the Internal Revenue Service.

7. The Manager shall keep adequate records of the accounts balance with respect to each individual account, and compile, prepare and deliver to MOST and to the Account Owners, on a timely basis, the financial information, reports and statements required of the Manager under the Act and this Contract, including, but not limited to such information as necessary for MOST to prepare any filings and reports to be delivered under the Act. In particular, the Manager shall prepare and deliver monthly reports to MOST including: (i) the number of new accounts; (ii) the holdings and total rate of return of the Trust and the underlying portfolios; (iii) the net asset value and total value of the Trust and each underlying portfolio at the first and last day of such month; (iv) the purchases and sales during such month of permitted investments, including any of the Mutual Funds; and (v) any other information MOST reasonably requests.

## **10. MARKETING SERVICES**

1. The Manager shall develop, manage and fund a marketing and promotion campaign for both the Direct and Advisor-sold programs. This campaign shall be tailored for the State of Missouri and designed to inform the public about MOST and its benefits, emphasizing its tax advantages and flexibility, to educate the public about the enrollment process and ultimately to enroll consumers. As appropriate and approved by the Board, the Manager shall use a variety of mechanisms to reach and inform the public about MOST. Such mechanisms may include, but not be limited to: statewide advertising and media placement, direct mail efforts, trade show activities, telemarketing, editorials and other publicity generating activities, research and market analysis activities, etc.

2. During the term of this Contract, the Manager shall create, evaluate and update a marketing plan, or at the Board's direction, two separate marketing plans for the Direct and Advisor sold programs annually. The purpose of the Direct program's marketing shall focus on end users of MOST, while the marketing plan for the Advisor



program shall include initiatives intended to market MO\$T to financial advisors and distribution networks within and outside the State of Missouri. The marketing plan must document how the Manager's proposed mix of activities is designed to inform the public about the savings program and to encourage participation in MO\$T.

3. The Manager shall submit all plan materials to the Board for written approval prior to finalizing such plan materials. The Manager shall not finalize, distribute or otherwise use any plan materials until receipt of such approval. After approval by the Board, the Manager shall implement the approved marketing and promotional activities.

4. The Manager is responsible for the preparation of printed marketing and promotional material designed to educate the public about the savings program, to inform the public about enrollment, and to encourage participation in the program. For all marketing material, the Manager must submit the concepts to the Board for approval in the form of rough layouts. The Manager must develop and use an invariable theme/slogan/image throughout its marketing efforts in order to insure consistency in messaging and to develop a strong, creative and memorable Program identity.

5. The Manager shall compile, prepare and provide to MO\$T, at least quarterly or within fifteen (15) business days of any request from MO\$T, a written evaluation of ongoing and completed marketing activities during the preceding quarter or any portion thereof.

6. The Manager shall establish a toll-free phone number for MO\$T as well as create and maintain a website for the MO\$T Program.

## **11. ADMINISTRATIVE SERVICES**

1. The Manager shall manage MO\$T in compliance with the Code, the Act, applicable federal and state laws and regulations, and the Contract. The Manager agrees to process all account activity on a timely basis, and provide state-of-the-art record keeping and exemplary customer service in accordance with terms and standards set forth in the Contract. Requirements include:

- The Manager shall develop rules and procedures for all processes related to MO\$T operations and submit them to the Board for approval.
- The Manager shall accept and process account applications and maintain a database of all prospect calls and inquiries.
- The Manager shall administer the individual accounts and shall provide detailed and accurate individual record keeping for each Account holder.
- The Manager shall mail account statements and reports detailing all activity in the individual account to the Account holder according to the schedule and frequency approved by the Board. Such schedule must be at least quarterly.

- The Manager shall accept individual account deposits from Account holders at least one time per month.
- The Manager shall accept and process all distribution requests. The Manager shall disburse funds to account beneficiaries according to established procedures and legal requirements, including the distribution of aggregated IRS Form 1099Q reports and any other forms required by law for withdrawals.
- For each person enrolled, the Manager shall deposit the funds within one banking day by the Midnight deadline into an individual savings account and must maintain such account in compliance with state and federal laws. If the Manager does not deposit the funds by the Midnight deadline, the Manager shall credit each individual Account holder's account with an amount equal to one days interest for each banking day that the Manager does not deposit the funds. (Banking day and midnight deadline are defined in RSMo Article 4, Part 1, 400.4-104 (3) and (10)).
- The Manager or financial intermediary shall staff support services for Account owners and provide a toll-free phone number for the MOST program.

2. The Manager shall assign a liaison staff person, with advanced oral and written communication skills as well as organizational and management skills, to coordinate communication, deliverables, and progression between MOST and the Manager. The Board reserves the right to disapprove any such person or to require the person's replacement, if such person is deemed unacceptable. This liaison must attend all formal Board meetings unless otherwise notified by the Board. The Manager must respond to the need for telephone consultation within a 24-hour period.

3. Upon request, the Manager shall provide the Board access to all files, records, documents and data pertaining to MOST that are in its possession and control regardless of how that information is stored.

4. The Manager must keep and protect the confidentiality of participant personal information, including identification numbers or codes and account codes and account access numbers or codes in accordance with all applicable federal and state laws and with section 13 of this Contract.

5. The Manager shall provide monthly reports to the Board indicating the number of new accounts and assets for that month and currently in existence, all relevant investment performance results, and other program administration and marketing information prescribed by the Treasurer or Board. The Manager shall also provide a quarterly report outlining customer service inquiries and results, the number and types of complaints and the manner in which they were resolved, the quarterly performance of all investments, and such other information as the Board requests.

## **12. CONTRACT TERM; TERMINATION; POST-TERM CONTRACT**

1. The term of the Contract shall commence on the date of this Contract and shall run through March 8, 2011.

2. This Contract may be terminated by MOST at any time, for the convenience of MOST, without penalty or recourse, by giving written notice to the Manager at least one hundred twenty (120) days prior to the effective date of such termination.

3. This Contract may be immediately terminated, in whole or in part, and all funds held in Trust by the Manager withdrawn by MOST at any time upon the occurrence of any of the following events:

(a) if the Manager is in material breach of any portion of this Contract, including representations, warranties, covenants or otherwise, or has failed to perform the Services in accordance with the terms of this Contract, including but not limited to the failure to meet performance standards or violation of the Investment Policy, and such breach or failure remains uncured for more than one business day after MOST has given written notice thereof to the Manager;

(b) if the Manager has produced investment performance with respect to the assets of the Trust that is substantially (more than 200 basis points or 2%) below the objectives, on an annual basis, outlined in the Investment Policy Statement;

(c) if the subsequent legislation or regulations, whether state, federal or otherwise, makes the continued operation of the Trust not in the best interest of the Account owners and/or beneficiaries;

(d) if the Manager commences a voluntary case or other proceeding seeking rehabilitation, liquidation, reorganization or other relief with respect to itself or its debts under any rehabilitation, bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a trustee, rehabilitator, receiver, liquidator, custodian or other similar official of its or substantially all of its property, or shall consent to any such relief or to the appointment of or taking possession by any such official in an involuntary case or other proceeding commenced against it, if it remains undismissed and unstayed for a period of sixty (60) days, or shall make general assignment for the benefit of creditors, or file an answer admitting the material allegations of a petition filed against it in any such proceeding or fail generally to pay its debts as they become due, or shall take any corporate action to authorize any of the foregoing.

Upon the occurrence of any of the above the cancellation shall become effective on the date specified in the written notice of cancellation sent to the Manager if presented to an authorized employee of the Manager at its address as listed on the signature page of the contract, or deposited in the United States mail, postage prepaid, and addressed to the Manager at its address as listed on the signature page of the contract, or to such address as the Manager may have requested in writing.

4. In the event of termination pursuant to this section, all documents, data, reports, supplies, equipment, and accomplishments prepared, furnished or completed by the Manager pursuant to the Contract shall, at the option of MOST, become the property

of MOST. The Manager may be entitled to receive just and equitable compensation for services and/or supplies delivered to and accepted by MOST pursuant to the Contract prior to the effective date of termination. The Manager further agrees and understands that any payment due under the terms of the contract shall be made by the State Treasurer's Office, hereinafter referred to as the **STO**, only (a) after the successful completion of all requirements set forth in the contract; and (b) after approval and acceptance by the STO of the Manager's performance, services and/or supplies required by the terms of the contract.

5. The Manager may terminate this Contract at any time and for any reason by giving written notice to MOST at least one hundred twenty (120) days prior to the effective date of such termination. In the event of termination pursuant to this paragraph, all documents, data, reports, supplies, and accomplishments prepared, furnished or completed by the Manager pursuant to the terms of the contract shall, at the option of the STO, become property of the State of Missouri. The Manager shall be entitled to receive just and equitable compensation for the work completed pursuant to the contract prior to the effective date of termination. The Manager agrees and understands that any payment due under the terms of the contract shall be made by the STO only (a) after the successful completion of all requirements set forth in the contract; and (b) after approval and acceptance by the STO of the Manager's performance, services and/or supplies required by the terms of the contract.

6. No provision in this document or in the Manager's proposal shall be construed, expressly or impliedly, as a waiver by the STO of any existing or future right and/or remedy available by law in the event of any claim of default or breach of contract.

### **13. TRANSITION**

1. At the time of expiration and/or termination of this contract, the Manager shall assist MOST to ensure an orderly transfer of duties and responsibility and the continuity of those services required under the terms of the Contract to an organization designated by MOST. The Manager shall deliver, FOB destination, all records, tapes, files, documentation, reports, data, recommendations, master, or printing elements, etc., which were required to be produced under the terms of the Contract to MOST and/or to MOST's designee within seven (7) days after receipt of a written request.

2. At the time of expiration and/or termination of the Contract, MOST shall specify a date after which time the Manager must stop accepting additional contributions and opening new accounts. In no event shall the Manager accept additional contributions or open new accounts after the expiration/termination of the Contract unless specifically authorized in writing by MOST to do so.

Although the Manager must stop accepting contributions or opening new accounts as specified above, if the Board determines that the financial position of the Manager would allow for continuation, the Manager may be permitted to maintain existing accounts for a period specified by the Board.

3. At the expiration of the transition period or at the time of termination of the Contract, if the Contract is cancelled due to breach, the Manager agrees to transfer the funds/accounts to another organization as specified by MOST on the date specified by the Board. On the last banking day prior to the specified date, all funds held by the Manager under MOST pursuant to the Contract shall be given a valuation for transfer. The Manager shall not be permitted to charge any party (Account owner, beneficiary, MOST, the Board, the State of Missouri, etc.) in any manner whatsoever for such transfer including fees, penalty, surrender charges, etc.

#### **14. CONFIDENTIALITY**

All confidential information shall be proprietary and shall not be disclosed to any third party other than employees and agents of MOST and the Manager and except for disclosures made to Account owners or beneficiaries of confidential information relating to them and their accounts. All confidential information acquired by the Manager during the course of the Contract term shall remain confidential for a period of five (5) years after the last date on which the Manager provides any services with respect to the accounts. "Confidential Information" shall mean any data, information or records, in any medium, relating to the Trust or MOST, obtained by the Manager from MOST or created by, held, compiled or maintained by the Manager. This section shall not restrict any disclosure required to be made by law, but in the event the Manager is ordered to disclose Confidential Information, the Manager shall afford MOST a reasonable opportunity to participate and object to any such disclosure.

The requirement of confidentiality under this Contract applies to all employees and agents of MOST and the Manager. The Manager shall use its best efforts to ensure that its employees and agents adhere to the confidentiality requirements set forth herein.

#### **15. REPRESENTATIONS AND WARRANTIES OF THE MANAGER**

The Manager hereby represents and warrants to MOST as follows:

(a) The Manager is a \_\_\_\_\_ corporation, duly authorized, validly existing and in good standing under the laws of the state of its incorporation as well as a foreign corporation under the laws of Missouri. The Manager has full corporate power and authority to execute and deliver this Contract and to perform its obligations hereunder and to consummate the transactions contemplated hereby.

(b) The execution and delivery by the Manager of this Contract, and the Managers performance hereunder, have been duly and validly authorized. The Manager has the full legal authority to execute and deliver this Contract and to perform its obligations hereunder. This Contract has been duly and validly executed and delivered by the Manager and constitutes a legal, valid and binding obligation of the Manager enforceable against the Manager in accordance with its terms.

(c) The execution and delivery of this Contract by the Manager, the performance by the Manager of its duties and obligations hereunder and consummation of the transactions contemplated hereby do not conflict with or result in the violation or breach of any of the terms, conditions or provisions of the Managers corporate by-laws, any law,

rule, regulation, judgment, decree, order or injunction applicable to the Manager or any material agreement to which the Manager is a party.

(d) There is no action, suit, investigation or proceeding pending or, to the best knowledge of the Manager, threatened against the Manager which might result in any material adverse change in the operations of the Manager or which might materially and adversely affect the ability of the Manager to perform the Services or otherwise comply with its obligations under this Contract.

## **16. REPRESENTATIONS AND WARRANTIES OF MO\$T**

The Board hereby represents and warrants to the Manager as follows:

(a) MO\$T is a division of the Department of Higher Education of the State of Missouri, duly organized and validly existing under the laws of the State.

(b) The execution and delivery by MO\$T of this Contract, and the performance by MO\$T hereunder, have been duly and validly authorized. The Board has the full legal authority to execute and deliver this Contract and to perform its obligations hereunder. This Contract has been duly and validly executed and delivered by the Board and constitutes a legal, valid and binding obligation of MO\$T enforceable against the MO\$T in accordance with its terms.

(c) all consents, approvals and actions of, and filing with or notice to, any agency or instrumentality of the State of Missouri in connection with the execution, delivery and performance of this Contract by MO\$T and the consummation of the transactions contemplated hereby by MO\$T have been obtained.

## **17. COVENANTS OF THE MANAGER**

1. The Manager shall provide Services and perform its obligations under this Contract in compliance with the requirements of all applicable law.

2. The Manager hereby agrees to rely on the interpretation of any applicable law as provided MO\$T and will not oppose MO\$T in any of its efforts to obtain an interpretation of applicable law.

3. The Manager shall cooperate with MO\$T in a commercially reasonable manner in order that the duties and obligations of the parties hereunder may be effectively, efficiently and promptly complied with. To this end, the Manager shall, at all reasonable times during normal business hours and as reasonably necessary, make available for discussion with MO\$T properly authorized personnel.

4. The Manager shall make all audit, accounting or other work papers, notes or other documentation received or prepared by the Manager in connection with this Contract available for review by MO\$T or its representatives during normal business hours.

## **17. NOTICES**

All notices pursuant to this Contract shall be in writing and shall be deemed duly given upon delivery if personally delivered, upon confirmation of transmission if sent by facsimile transmission, upon the third business day after mailing if sent by registered or

certified mail, postage prepaid, and upon receipt if sent by reputable courier, as follows, or to such other address or persons any party hereafter designates by written notice:

[Insert addresses here]

## **18. WAIVER AND AMENDMENTS**

1. The terms and conditions of this Contract may be waived only by a written instrument signed by the party waiving compliance. The failure of MOST or the Manager to insist on strict compliance with this Contract, or to exercise any right or remedy under this Contract, shall not constitute a waiver of any rights provided under this Contract, nor estop any of them from thereafter demanding full and complete compliance to prevent any party from exercising such a right or remedy in the future.

2. This Contract, including the exhibits hereto, may be amended only if such amendment is in writing and signed by both parties to this Contract.

## **19. ENTIRE AGREEMENT**

This Contract incorporates the RFP and the Proposal and thereby supplemented represents the entire understanding of the parties hereto with respect to the subject matter hereof and incorporates, merges and supersedes any and all prior understandings and communications, whether written or oral, with respect to such subject matter.

## **20. FORCE MAJEURE**

Except for payment obligations hereunder, neither party shall be liable to the other for any failure to comply with the terms of this Contract, for any delays in the performance thereof or for failure to perform under the terms and provisions of this Contract, where such failure or delay is due to causes beyond such party's reasonable control including, acts of God, acts of civil or military authority, fires, floods, suspension of trading, epidemics, wars, riots, strikes and delays in transportation. This clause does eliminate liability if the failure to perform is due to a computer failure.

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

**MANAGER:**

**MISSOURI HIGHER EDUCATION  
SAVINGS BOARD:**

SARAH STEELMAN,  
STATETREASURER

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## **EXHIBIT C**

**Revised Missouri Statutes, Sections 166.500 through 166.529**

## MISSOURI HIGHER EDUCATION DEPOSIT PROGRAM

### ➡166.500. Citation of law.

Sections 166.500 to [166.529](#) shall be known and may be cited as the "Missouri Higher Education Deposit Program".

### ➡166.501. Program established as alternative to Missouri higher education savings program

Notwithstanding the provisions of [sections 166.400](#) to [166.456](#) to the contrary, the higher education deposit program is established as a nonexclusive alternative to the Missouri higher education savings program, and any participant may elect to participate in both programs subject to aggregate Missouri program limitations.

### ➡166.502. Definitions

As used in [sections 166.500](#) to [166.529](#), except where the context clearly requires another interpretation, the following terms mean:

(1) **"Beneficiary"**, any individual designated by a participation agreement to benefit from payments for qualified higher education expenses at an eligible educational institution;

(2) **"Benefits"**, the payment of qualified higher education expenses on behalf of a beneficiary from a deposit account during the beneficiary's attendance at an eligible educational institution;

(3) **"Board"**, the Missouri higher education savings program board established in [section 166.415](#);

(4) **"Eligible educational institution"**, an institution of postsecondary education as defined in [Section 529\(e\)\(5\) of the Internal Revenue Code](#);

(5) **"Financial institution"**, a depository institution and any intermediary that brokers certificates of deposits;

(6) **"Internal Revenue Code"**, the Internal Revenue Code of 1986, as amended;

(7) **"Missouri higher education deposit program"** or **"deposit program"**, the program created pursuant to [sections 166.500](#) to [166.529](#);

(8) **"Participant"**, a person who has entered into a participation agreement pursuant to [sections 166.500 to 166.529](#) for the advance payment of qualified higher education expenses on behalf of a beneficiary;

(9) **"Participation agreement"**, an agreement between a participant and the board pursuant to and conforming with the requirements of [sections 166.500 to 166.529](#);

(10) **"Qualified higher education expenses"**, the qualified costs of tuition and fees and other expenses for attendance at an eligible educational institution, as defined in [Section 529\(e\)\(3\) of the Internal Revenue Code of 1986](#), as amended.

➡ **166.505. Program created, Missouri higher education savings program board to administer, powers and duties--investment of funds**

1. There is hereby created the "Missouri Higher Education Deposit Program". The program shall be administered by the Missouri higher education savings program board.

2. In order to establish and administer the deposit program, the board, in addition to its other powers and authority, shall have the power and authority to:

(1) Develop and implement the Missouri higher education deposit program and, notwithstanding any provision of [sections 166.500 to 166.529](#) to the contrary, the deposit programs and services consistent with the purposes and objectives of [sections 166.500 to 166.529](#);

(2) Promulgate reasonable rules and regulations and establish policies and procedures to implement [sections 166.500 to 166.529](#), to permit the deposit program to qualify as a qualified state tuition program pursuant to [Section 529 of the Internal Revenue Code](#) and to ensure the deposit program's compliance with all applicable laws;

(3) Develop and implement educational programs and related informational materials for participants, either directly or through a contractual arrangement with a financial institution or other entities for deposit educational services, and their families, including special programs and materials to inform families with children of various ages regarding methods for financing education and training beyond high school;

(4) Enter into an agreement with any financial institution, entity, or business clearinghouse for the operation of the deposit program pursuant to [sections 166.500 to 166.556](#); providing however, that such institution, entity, or clearinghouse shall be a private for-profit or not-for-profit entity and not a

government agency. No more than one board member may have a direct interest in such institution, entity, or clearinghouse. Such institution, entity, or clearinghouse shall implement the board's policies and administer the program for the board and with electing depository institutions and others;

(5) Enter into participation agreements with participants;

(6) Accept any grants, gifts, legislative appropriations, and other moneys from the state, any unit of federal, state, or local government or any other person, firm, partnership, or corporation for deposit to the account of the deposit program;

(7) Invest the funds received from participants in appropriate investment instruments to be held by depository institutions or directly deposit such funds in depository institutions as provided by the board and elected by the participants;

(8) Make appropriate payments and distributions on behalf of beneficiaries pursuant to participation agreements;

(9) Make refunds to participants upon the termination of participation agreements pursuant to the provisions, limitations, and restrictions set forth in [sections 166.500](#) to [166.529](#) and the rules adopted by the board;

(10) Make provision for the payment of costs of administration and operation of the deposit program;

(11) Effectuate and carry out all the powers granted by [sections 166.500](#) to [166.529](#), and have all other powers necessary to carry out and effectuate the purposes, objectives, and provisions of [sections 166.500](#) to [166.529](#) pertaining to the deposit program;

(12) Procure insurance, guarantees, or other protections against any loss in connection with the assets or activities of the deposit program, as the members in their best judgment deem necessary;

(13) To both adopt and implement various methods of transferring money by electronic means to efficiently transfer funds to depository institutions for deposit, and in addition or in the alternative, to allow funds to be transferred by agent agreements, assignment, or otherwise, provided such transfer occurs within two business days;

(14) To both adopt and implement methods and policies designed to obtain the maximum insurance of such funds for each participant permitted and provided for by the Federal Deposit Insurance Corporation, or any other federal agency insuring deposits, and taking into consideration the law and regulation

promulgated by such federal agencies for deposit insurance.

3. The funds shall be invested only in those investments which a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, as provided in [section 105.688, RSMo](#), as a means to hold funds until they are placed in a Missouri depository institution as a deposit. The board may delegate to duly appointed representatives of financial institutions authority to act in place of the board in the investment and reinvestment of all or part of the moneys and may also delegate to such representatives the authority to act in place of the board in the holding, purchasing, selling, assigning, transferring, or disposing of any or all of the investments in which such moneys shall have been invested, as well as the proceeds of such investments and such moneys, however, such investments shall be limited to certificates of deposit and other deposits in federally insured depository institutions. Such representatives shall be registered as "qualified student deposit advisors on [section 529](#) plans" with the board and such board shall, by rule, develop and administer qualification tests from time to time to provide representatives the opportunity to qualify for this program. In exercising or delegating its investment powers and authority, members of the board shall exercise ordinary business care and prudence under the facts and circumstances prevailing at the time of the action or decision. No member of the board shall be liable for any action taken or omitted with respect to the exercise of, or delegation of, these powers and authority if such member shall have discharged the duties of his or her position in good faith and with that degree of diligence, care, and skill which a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims.

4. No board member or employee of the deposit program shall personally receive any gain or profit from any funds or transaction of the deposit program as a result of his or her membership on the board. Any board member, employee, or agent of the deposit program accepting any gratuity or compensation for the purpose of influencing such board member's, employee's, or agent's action with respect to choice of intermediary, including any financial institution, entity, or clearinghouse, for the funds of the deposit program shall thereby forfeit the office and in addition thereto be subject to the penalties prescribed for bribery. However, a board member who is regularly employed directly or indirectly by a financial institution may state that institution's interest and absent himself or herself from voting.

5. Depository institutions originating the deposit program shall be the agent of the board and offer terms for certificates of deposit and other deposits in such program as permitted by the board, subject to a uniform interest rate disclosure as defined in federal regulations of the Board of Governors of the Federal Reserve System, specifically Federal Reserve Regulation DD, as amended from time to time. The board shall establish various deposit opportunities based on amounts deposited and length of time held that are uniformly available to all depository institutions that elect to participate in the program, and the various categories of fixed or variable rates shall be the only interest rates available under this program. A depository institution that originates the deposit as agent for the board and participates in the program shall receive back and continue to hold the certificate of deposit or other deposit, provided such depository institution continues to comply with requirements and regulations prescribed by

the board. Such deposit and certificate of deposit shall be titled in the name of the clearing entity for the benefit of the participant, and shall be insured as permitted by any agency of the federal government that insures deposits in depository institutions. Any depository institution or intermediary that fails to comply with these provisions shall forfeit its right to participate in this program; provided however, the board shall be the sole and exclusive judge of compliance except as otherwise provided by provisions in [Section 529 of the Internal Revenue Code](#) and the Internal Revenue Service enforcement of such section.

**➡166.508. Deposit program participation agreements, terms and conditions-- contribution limits--minimum holding time for contributions**

1. The board may enter into deposit program participation agreements with participants on behalf of beneficiaries pursuant to the provisions of [sections 166.500](#) to [166.529](#), including the following terms and conditions:

(1) A participation agreement shall stipulate the terms and conditions of the deposit program in which the participant makes contributions;

(2) A participation agreement shall specify the method for calculating the return on the contribution made by the participant as otherwise provided in [sections 166.500](#) to [166.529](#);

(3) The execution of a participation agreement by the board shall not guarantee that the beneficiary named in any participation agreement will be admitted to an eligible educational institution, be allowed to continue to attend an eligible educational institution after having been admitted or will graduate from an eligible educational institution;

(4) A participation agreement shall disclose to participants the risk associated with depositing moneys with the board, including information on federal insured deposit availability and coverage and penalties for withdrawal before the deposit has matured;

(5) Participation agreements shall be organized and presented in a way and with language that is easily understandable by the general public; and

(6) A participation agreement shall clearly and prominently disclose to participants the existence of any fee or similar charge assessed against the accounts of the participants for administration or services.

2. The board shall establish the maximum amount which may be contributed annually by a participant with respect to a beneficiary.

3. The board shall establish a total contribution limit for deposit accounts established under the deposit program with respect to a beneficiary to permit the deposit program to qualify as a qualified state tuition program pursuant to [Section 529 of the Internal Revenue Code](#). No contribution may be made to a deposit account for a beneficiary if it would cause the balance of all deposit accounts of the beneficiary to exceed the total contribution limit established by the board. The board may establish other requirements that it deems appropriate to provide adequate safeguards to prevent contributions on behalf of a beneficiary from exceeding what is necessary to provide for the qualified higher education expenses of the beneficiary.

4. The board shall establish the minimum length of time that contributions and earnings must be held by the deposit program to qualify pursuant to [section 166.435](#). Any contributions or earnings that are withdrawn or distributed from a deposit account prior to the expiration of the minimum length of time, as established by the board, shall be subject to a penalty pursuant to [section 166.514](#).

**➡166.511. Prompt investment of moneys paid by participation agreements, use of moneys**

All money paid by a participant in connection with participation agreements shall be deposited as received and shall be promptly invested by the board or may be directly deposited by the board's agents. Contributions and earnings thereon accumulated on behalf of participants in the deposit program may be used, as provided in the participation agreement, for qualified higher education expenses.

**➡166.514. Cancellation of agreements, penalty**

Any participant may cancel a participation agreement at will. The board shall impose a penalty equal to or greater than ten percent of the earnings of an account for any distribution that is not:

- (1) Used exclusively for qualified higher education expenses of the designated beneficiary;
- (2) Made because of death or disability of the designated beneficiary;
- (3) Made because of the receipt of scholarship by the designated beneficiary;
- (4) A rollover distribution, as defined in [Section 529\(c\)\(3\)\(C\)\(i\) of the Internal Revenue Code](#); or
- (5) Held in the fund for the minimum length of time established by the board.

**➡166.517. Assets used for program purposes only**

The assets of the deposit program shall at all times be preserved, invested, and expended only for the purposes set forth in this section and in accordance with the participation agreements, and no property rights therein shall exist in favor of the state.

#### ➡166.520. Rulemaking authority

Any rule or portion of a rule, as that term is defined in [section 536.010, RSMo](#), that is promulgated pursuant to [sections 166.500](#) to [166.556](#) shall become effective only if it has been promulgated pursuant to the provisions of chapter 536, RSMo. All rulemaking authority delegated prior to August 28, 2004, is of no force and effect and repealed; however, nothing in this section shall be interpreted to repeal or affect the validity of any rule filed or adopted prior to August 28, 2004, if it fully complied with the provisions of chapter 536, RSMo. [Sections 166.500](#) to [166.556](#) and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2004, shall be invalid and void.

#### ➡166.523. Review of program by state auditor, when

The Missouri state auditor shall, on a semiannual basis, review the financial status and investment policy of the program as well as the participation rate in the program. The auditor shall also review the continued viability of the program and the administration of the program by the board. The auditor shall report the findings annually to the board, which shall subsequently disclose such findings at a public meeting.

#### ➡166.526. Program moneys not part of state revenues

Money accruing to and deposited in individual deposit accounts shall not be part of total state revenues as defined in [sections 17](#) and [18, article X, Constitution of Missouri](#), and the expenditure of such revenues shall not be an expense of state government under [section 20, article X, Constitution of Missouri](#).

#### ➡166.529. Confidentiality requirements

All personally identifiable information concerning participants and beneficiaries of accounts established within the Missouri higher education deposit program pursuant to [sections 166.500](#) to 166.529 shall be confidential, and any disclosure of such information shall be restricted to purposes directly connected with the administration of the program.

#### ➡166.532. Sunset provision



Pursuant to [section 23.253, RSMo](#), of the Missouri Sunset Act:

(1) The provisions of the new program authorized under [sections 166.500 to 166.557](#) shall automatically sunset six years after August 28, 2004, unless reauthorized by an act of the general assembly; and

(2) If such program is reauthorized, the program authorized under [sections 166.500 to 166.532](#) shall automatically sunset twelve years after the effective date of the reauthorization of [sections 166.500 to 166.532](#); and

(3) [Sections 166.500 to 166.532](#) shall terminate on September first of the calendar year immediately following the calendar year in which the program authorized under [sections 166.500 to 166.532](#) is sunset.

**EXHIBIT D**

**Attachment 1**

**(To be Used by Bidders for Submission of Proposal)**

## **APPENDIX 1**

### **REQUIRED ATTACHMENT CHECK LIST**

A complete proposal or proposal package will include the items identified below. Complete this checklist to confirm the items in your proposal. Place a check mark or “X” next to each item that you are submitting to the SIB. For your proposal to be responsive, all required attachments must be returned. **RETURN THIS CHECKLIST WITH YOUR PROPOSAL PACKAGE.**

<b><u>ATTACHMENT</u></b>	<b><u>ATTACHMENT NAME / DESCRIPTION</u></b>
_____ Appendix 1	Required Appendix Check List
_____ Appendix 2	Audited Financial Statements for Bidder
_____ Appendix 3	Audited Financial Statements for Subcontractors
_____ Appendix 4	Mutual Fund Prospectuses
_____ Appendix 5	Summary of Proposed Investment Options (see Exhibit E)
_____ Appendix 6	Mutual Fund Information (see Exhibit F)
_____ Appendix 7	SAS 70 Audit Report
_____ Appendix 8	Sample of Participant/Beneficiary Statements
_____ Appendix 9	Sample of 529 Program Report to Board
_____ Appendix 10	Project Plan
_____ Appendix 11	Program Management Fees & Expenses (see Exhibit G)

**EXHIBIT E**

**TEMPLATE FOR SUMMARY OF PROPOSED INVESTMENT OPTIONS**

Attachment 5

2005 Request for Proposal for State of Missouri's MO\$T Program  
Summary of Proposed Investment Options

Name of Bidder: \_\_\_\_\_

Program (Direct/Advisor): \_\_\_\_\_

Name of Investment Option	Type of Fund (Age-Based / Static / Other)	Band (if applicable)	Investment Manager	Asset Class	Avg Annual Total Return		
					1 yr	3 yr	5 yr

**EXHIBIT F**

**TEMPLATE FOR MUTUAL FUNDS**

## Attachment 6

## 2005 Request for Proposal for State of Missouri's MO\$T Program

### Fund Information

## Summary Information

Name of Bidder: \_\_\_\_\_

Name of Investment Option: \_\_\_\_\_

Type of Fund: \_\_\_\_\_ If age-based, indicate band: \_\_\_\_\_  
(Age-Based/Static/Other-Describe) \_\_\_\_\_

Investment Manager: \_\_\_\_\_ Offered in Direct or Advisor Program? \_\_\_\_\_

[illegible]

## **EXHIBIT G**

### **TEMPLATE FOR PROGRAM MANAGEMENT FEES AND EXPENSES**



**2005 Request for Proposal for State of Missouri's MO\$T Program  
Program Management Fees and Expenses  
(Direct Program Only)**

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<b><u>Fixed Fees</u></b>	
<b>Program Management Fee:</b>	
<u>Expenses</u> (in basis points)	
Administrative Costs	_____ bp
Investment Management	_____ bp
Marketing	_____ bp
Customer Service/Acct. Admin.	_____ bp
Other (specify below):	
_____	_____ bp
_____	_____ bp
_____	_____ bp
Total Program Management Fee:	<div style="border: 3px double black; width: 150px; height: 20px;"></div> bp
(Sum of above)	
<b>Account Maintenance Fees (if any):</b>	
Account Set-up Fee	_____
Other - specify:	
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

[illegible]